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BEFORE THE DU PAGE COUNTY
ZONING BOARD OF APPEALS

Rezoning from B-1 Local Business) Z24-074
to B-2 General Business District) Biagio

November 14, 2024
6:00 p.m.

PROCEEDINGS HAD and testimony
taken before the DU PAGE COUNTY ZONING BOARD OF
APPEALS, taken at the DuPage County
Administration Building, 421 North County Farm
Road, Wheaton, Illinois, before LINDA M.
CIOSEK, C.S.R. a Notary Public qualified and
commissioned for the State of Illinois.

BOARD MEMBERS PRESENT:

- MR. ROBERT KARTHOLL, Chairman.
- MR. DENNIS MORAN, Commissioner.
- MR. BARRY KETTER, Commissioner.
- MR. JACK MURPHY, Commissioner.
- MR. ZAIN RAHMAN, Commissioner.
- MR. CARL SCHULTZ, Commissioner.
- MR. JIM JAROG, Commissioner, via Zoom.

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1 ALSO PRESENT:
 2 MS. JESSICA INFELISE DATZMAN, Planning &
 3 Zoning.
 4 MR. PAUL HOSS, Planning & Zoning.
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1 CHAIRMAN KARTHOLL: This is the DuPage
 2 County Zoning Board of Appeals, we're here this
 3 evening to conduct our November 14 meeting.
 4 I'll call the meeting to order indicating that
 5 all members are present with the exception of
 6 Mr. Jarog, and there is no need for a roll call
 7 vote.
 8 I do have one -- I don't
 9 have any items of public comment that are not
 10 related to this hearing; is that right?
 11 MS. INFELISE DATZMAN: Correct.
 12 CHAIRMAN KARTHOLL: All right. I do
 13 have an item of public comment submitted in
 14 writing online that I'll refer to during the
 15 meeting.
 16 Next, we have no minutes to
 17 approve so I'm ready to begin the zoning case
 18 for this evening, and that case is Biagio Land
 19 Corporation. This is styled as 24-074, and
 20 it's a request for rezoning from B-1 Local
 21 Business to B-2 General Business District. The
 22 matter was published in the Daily Herald on
 23 October 30, 2024.
 24 I have no -- I have a couple

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1 EXHIBITS
 2 Page No.
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 4 Petitioner's Exhibits 1 through 4 7
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1 of comments about the need for additional
 2 information from one or two of the departments
 3 of the County, but no objections or comments
 4 filed by any of the authorities to whom we've
 5 circulated the petition.
 6 And I have a survey and a
 7 site -- well, what do I have? I have a site
 8 plan. And then, Brian, are these your
 9 exhibits?
 10 MR. ARMSTRONG: Yeah, would you like me
 11 to run through the exhibits real quick?
 12 CHAIRMAN KARTHOLL: Yeah. Can we start
 13 with your survey as Petitioner's Exhibit 1 and
 14 your site plan as Petitioner's Exhibit No.
 15 2, and then tell us the date of each.
 16 MR. ARMSTRONG: That's how they're
 17 marked.
 18 (Whereupon Commissioner
 19 Jarog joined the meeting via
 20 Zoom.)
 21 CHAIRMAN KARTHOLL: I'll get to the
 22 exhibits in a moment. We'll ask you and your
 23 witnesses to be sworn in.
 24 THE COURT REPORTER: Would you raise

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1 your right hands, please.
 2 (Whereupon, the oath was
 3 duly administered by the
 4 Notary.)
 5 CHAIRMAN KARTHOLL: You can identify
 6 yourselves when you begin your remarks, but Mr.
 7 Armstrong, I'll start with you. And start
 8 again with your exhibits after you introduce
 9 yourself.
 10 MR. ARMSTRONG: Thank you. Good
 11 evening, everyone, nice to see you again, Brian
 12 Armstrong on behalf of the petitioner.
 13 We have four exhibits that
 14 we're going to refer to. Exhibit 1 is a survey
 15 of the property updated by the surveyor on
 16 September 9 of 2024.
 17 Exhibit 2 is the site plan
 18 for proposed construction.
 19 Exhibit 3 is a Land Use and
 20 Zoning Exhibit regarding the surrounding
 21 property.
 22 And Exhibit 4 is an aerial
 23 photo of the area and the surrounding property
 24 and various uses of surrounding property.

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1 (Whereupon, Petitioner's
 2 Exhibit 1 through 4 were
 3 marked for identification.)
 4 CHAIRMAN KARTHOLL: Okay. Could you let
 5 me interrupt you a moment. We have a member
 6 that's just appearing on Zoom and we're
 7 required to ask the member to indicate the
 8 reason that he's not here, and then we have to
 9 have a motion to permit him to appear by Zoom.
 10 Go ahead, Mr. Jarog, can you
 11 hear me?
 12 COMMISSIONER JAROG: Yes, I can. I'm
 13 away at work travel again for business.
 14 CHAIRMAN KARTHOLL: Okay. Is there a
 15 motion?
 16 COMMISSIONER MORAN: Motion.
 17 CHAIRMAN KARTHOLL: Motion by Mr. Moran.
 18 Is there a second to the motion?
 19 COMMISSIONER SCHULTZ: Second.
 20 CHAIRMAN KARTHOLL: Seconded by Mr.
 21 Schultz. Any discussion on the motion?
 22 (No response.)
 23 CHAIRMAN KARTHOLL: All in favor of the
 24 motion, please signify by saying aye.

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1 (Voice vote taken.)
 2 CHAIRMAN KARTHOLL: Any opposed? Motion
 3 --
 4 COMMISSIONER MURPHY: Yes, I oppose.
 5 CHAIRMAN KARTHOLL: I'm sorry, one
 6 opposition, but I'll indicate that the majority
 7 seems to prefer that Mr. Jarog be permitted to
 8 appear by Zoom.
 9 And now we'll go back to Mr.
 10 Armstrong.
 11 MR. ARMSTRONG: Thank you, Mr. Chairman.
 12 So, this petition is for a rezoning only from
 13 B-1 to B-2. We're not requesting any
 14 variations, we're not requesting any
 15 conditional uses, just a straight rezoning.
 16 The petitioner, the owner of
 17 the property, is a concrete and asphalt paving
 18 contractor and they use the property for the
 19 construction office and yard, which is a
 20 permitted use in the B-2 District. The plan,
 21 if you look at the survey which is Exhibit 1,
 22 you'll see there's a building on the property
 23 currently. Exhibit 2, the site plan, shows
 24 what they intend to apply for from the County,

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1 assuming the rezoning is granted. They want to
 2 tear down the existing building and put up a
 3 new larger building. When they make those
 4 submissions to the Building Department, they
 5 will comply with all of the setbacks, they will
 6 comply with all of the stormwater regulations,
 7 they will comply with all of the applicable
 8 regulations that will be imposed on them to get
 9 approval to do that, which is why we're not
 10 asking for any variations and not asking for
 11 any conditional uses. They will comply with all
 12 of those regulations without any relief, so
 13 that's why we're only asking for the rezoning.
 14 As I said, they're a
 15 concrete contractor, they use it for their
 16 office and yard. They have about two to three
 17 people in the office each day during the day
 18 and then they have a number of employees who
 19 come to the site, drive their cars to the site,
 20 pick up company vehicles, work trucks, work
 21 vehicles, box trucks, pickup trucks, et cetera,
 22 and take them out to the job site.
 23 So they have stored at the
 24 site approximately 12 box trucks, they have

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1 some Bobcats, some skid steers, that type of
 2 equipment that they typically use; some
 3 trailers, they have two cement trucks. And
 4 those vehicles, the work vehicles, if you look
 5 at both Exhibit 1 and Exhibit 2, the survey and
 6 the site plan do depict a fence about a third
 7 of the way into the property. That's a
 8 six-foot tall wooden fence that exists
 9 currently that provides screening from the
 10 front of the property. That is planned to
 11 stay. And then there is currently fencing
 12 around the perimeter of the property, a chain
 13 link fence around the perimeter of the
 14 property. So that's -- and they intend to
 15 continue to use the property for those same
 16 purposes.

17 CHAIRMAN KARTHOLL: Let me interrupt
 18 again. Just Mr. Armstrong and I had a brief
 19 discussion before the hearing started to
 20 clarify that this is a straightforward request
 21 for rezoning, so if this rezoning request is
 22 granted, any use that is permitted within the
 23 B-2 zoning category would be permitted. So the
 24 testimony concerning the current use or

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1 proposed future use is entirely irrelevant and
 2 is offered only in order to give background
 3 information, particularly to members of the
 4 public.

5 MR. ARMSTRONG: Thank you, Mr. Chairman.
 6 We have Joe Abel here, a land planner who you
 7 all are familiar with. Joe can talk a little
 8 bit about his experience, but as you probably
 9 heard many times, he's been a land planner for
 10 more than 50 years, he was the head of the
 11 DuPage County Zoning Department for many years,
 12 he helped draft -- or actually drafted the
 13 first County Zoning Ordinance, you've heard
 14 from him many times, there's no debate about
 15 his qualifications. He's going to explain to
 16 you in more detail than I about why the
 17 surrounding uses and the zoning of the
 18 surrounding properties support rezoning to B-2.

19 Just very briefly, I'll let
 20 him get into more detail, but there are a whole
 21 bunch of different types of zoning and a whole
 22 bunch of different types of uses. There isn't
 23 one that's most predominant, including there
 24 are B-2 Zoning lots and B-2 Zoning uses two

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1 lots away, two lots down.
 2 So, with that I'll introduce
 3 Joe Abel. And, Joe, go ahead and provide your
 4 testimony, please.

5 MR. ABEL: As Brian mentioned, I look at
 6 this property the same way the Chairman has,
 7 and that is from a planning standpoint. And as
 8 Brian said I was actually Director of County
 9 Development Department which included
 10 long-range planning for the County, plus I did
 11 zoning work and all of the development projects
 12 that took place during the 17 years I was with
 13 the County.

14 In terms of this particular
 15 piece of property, when I first was asked to
 16 look at it, it struck me as sort of strange
 17 that this property was still left in a B-1
 18 zoning classification. Before I get into that
 19 particular part of it, the property represents
 20 about one and-a-quarter acres. It has 130 foot
 21 of frontage on Lake Street, and it has a depth
 22 of about almost 400-some feet. I took from the
 23 midpoint because the property is on an angle.
 24 The actual depth is 462 feet, 130 feet of

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1 frontage on Lake Street and in the back, and
 2 it's 120 when you go from property line to
 3 property line.

4 As was mentioned, there is
 5 an existing building on the property. It's
 6 been there, I think -- I was with the County
 7 from '70 to '87 and this property was there
 8 then, so it goes way, way back, and that's the
 9 reason that it has a setback that's not what we
 10 expect from a property like this today. So
 11 it's almost on -- the building is almost on the
 12 property line.

13 So, that particular building
 14 which is zoned doesn't meet today's standards
 15 and will be removed. Anyway, this property is
 16 redeveloped, but it's my understanding working
 17 very closely with the developer, the owner, the
 18 business is going to stay exactly the same,
 19 it's just that the building now will meet all
 20 the setback standards, which it has to do
 21 because we're not here for any variations. The
 22 front of the property, if you've been out
 23 there, the signage is all very close to the
 24 highway. All that's going to be set back. The

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1 normal setbacks that are required along Lake
 2 Street will be adhered to.
 3 The building that will be on
 4 the property, about 3700 square feet, meets all
 5 the parking standards, and then the storage of
 6 the vehicles in the back behind the wooden
 7 fence. If it were laid out on this drawing,
 8 there would be approximately space for 24
 9 trucks. They don't have that many, but that's
 10 the maximum that could go into that particular
 11 depth.
 12 Thinking about this as its
 13 present zoning B-1, the B-1 District -- if you
 14 start with the definition of the B-1, it's
 15 neighborhoods. This is not a neighborhood
 16 area, this is a land use -- we're talking about
 17 Lake Street, this is a very-heavily traveled
 18 road and the types of uses there are intended
 19 to be heavier as opposed to what you would find
 20 in a local B-1 neighborhood, shopping area.
 21 It's understood that all of the landscape
 22 standards will be met. That's enough about the
 23 site itself.
 24 The surrounding land use

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1 zoning just emphasizes what I was saying in
 2 terms of types of uses that you would expect to
 3 find along Lake Street. And, again, everything
 4 on the north side of Lake Street is within the
 5 Village of Roselle, the small portion of the
 6 County that extends up into the area that has
 7 not been annexed, but other than that
 8 everything is within either the Village of
 9 Roselle. And when you go to the east, the area
 10 is either in the Village of Bloomingdale,
 11 DuPage County, you all have your exhibit in
 12 front of you, and then there is a strip
 13 annexation that Bloomingdale made to bring
 14 multiple-family zoning onto Lake Street,
 15 whereas you can see everything else for a
 16 couple of miles is either zoned B-5 in Roselle,
 17 B-2 in the County with the exception of the
 18 subject property and the lot on either side of
 19 the subject property.
 20 The lot directly to the west
 21 is an open space lot, it has drainage problems
 22 and probably will never be developed. It's
 23 been sitting there vacant forever, and so I
 24 don't anticipate any development on that.

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1 The parcel directly to the
 2 east is an office -- constructed as an office
 3 building, but is currently used for an adult
 4 use. And then you continue on back to the
 5 Village of Bloomingdale with multiple family,
 6 which is sort out of character with everything
 7 along this entire Lake Street corridor, which
 8 is either zoned M or B-2 or B-5.
 9 As I said, the use has been
 10 there, goes back to my time when I was with the
 11 County from '70 to '87, so it seems like this
 12 is an appropriate time to get rid of that spot
 13 zone and put it into a classification that it
 14 should be in.
 15 In terms --
 16 CHAIRMAN KARTHOLL: Just one second,
 17 Joe. Did you tell us what's to the immediate
 18 south? I missed that if you did.
 19 MR. ABEL: To the south is yellow. Just
 20 as behind all of the commercial on Lake Street
 21 you go right back into R-3 residential in
 22 Roselle, County is B-4 -- R-4, Roselle again
 23 R-2.
 24 CHAIRMAN KARTHOLL: So it's County and

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1 the use is residential?
 2 MR. ABEL: The subject property?
 3 CHAIRMAN KARTHOLL: No, no, south of the
 4 subject.
 5 MR. ABEL: Yes, south of the subject
 6 property is all County R-4.
 7 CHAIRMAN KARTHOLL: Okay.
 8 MR. ABEL: And then directly to the east
 9 by one lot, the one adult use lot, is all R-3
 10 special use, as the townhouse development that
 11 Bloomingdale came up into this area.
 12 CHAIRMAN KARTHOLL: Got it.
 13 MR. ABEL: I can't explain it, but it's
 14 there. It would seem that the corridor is
 15 commercial everywhere except in that one
 16 particular area.
 17 Another exhibit that we
 18 prepared what we're showing here is that a lot
 19 of times you see the Roselle R-5 zoning
 20 classification along the entire frontage. I
 21 don't think there's any exception except one
 22 little area that's B-1 on the north side, but
 23 other than that everything is B-5. And you
 24 might say, well, B-5 in Roselle is heavier, but

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1 we're showing on this particular exhibit that
2 the B-5 exhibit I'll call subject property,
3 every one of these uses that we've labeled are
4 permitted uses in the Roselle B-5 and they are
5 also permitted uses in the County B-2. So, in
6 effect, even though the exhibit is showing B-2
7 on the south side, really when you look at the
8 two Ordinances and the permitted uses, the two
9 zoning classifications are identical. So the
10 County B-2 is the same as the Roselle B-5.
11 And so in terms of one of
12 the standards in terms of what is the
13 predominant land use in this particular
14 corridor, it's commercial and it's the type of
15 commercial that you would find either in the
16 Roselle B-5 or the County B-2.
17 As I mentioned B-1, just
18 looking at the Zoning Ordinance specifically
19 states that B-1 is meant for neighborhood-type
20 commercial, not for regional-type corridors
21 that you find on Lake Street.
22 I think that's the main
23 thing of this particular exhibit, that's to
24 show that both of these fall within the same

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1 zoning classification even though they are
2 different on the Land Use and Zoning Exhibit.
3 In terms of the trend of
4 development, again, you can see that pretty
5 much this corridor has just developed over the
6 years. The only use that is not a permitted
7 use as you'll see on your map is the bowling
8 alley primarily requires a conditional use.
9 Other than that, every other use on this
10 corridor is a permitted use in either district.
11 That's the main thing in
12 terms of the standard of the existing land use
13 and the property in the general area.
14 The Zoning classification,
15 it's B-2, is primarily for your heavier type
16 uses along a regional outlot like Lake Street
17 as opposed to neighborhood commercial.
18 The suitability of the
19 property in question for the use is permitted.
20 The present use has been there, oh, I would say
21 probably 30, 40 years. It's existed there,
22 it's pretty much a similar operation of what's
23 happening now, so you have the opportunity to
24 now have the same use but have it meet all of

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1 the standards that are in the B-2 Zoning
2 District. As far as setbacks and things of
3 that nature, everything will be met. Again, we
4 are not asking for any variations whatsoever.
5 And when you look at the
6 other exhibit, you can see the trend of
7 development is all towards automotive-oriented
8 uses.
9 And one of the other things
10 I wanted to mention is that when you get to the
11 uses that are not commercial, again, you can
12 see on the aerial photograph they are heavier
13 uses that have truck components with them. You
14 have the office building on the corner, you
15 have Roselle Motors. Again, looking at the
16 south side of Lake Street, all heavier uses,
17 public storage, which again is a permitted use
18 within the district, even though it's not in
19 the County. So in terms of trend of
20 development, character of the area, what's
21 being proposed fits in perfectly.
22 When you look at the site
23 itself in terms of it's long and narrow,
24 there's no way that you could put a use other

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1 than one that's going to contemplate using the
2 back part for some particular purpose. There
3 would be no reason to have just a retail use,
4 either restaurant or something of that nature
5 because of the long quality of that property.
6 Most of the other uses across here all have a
7 much shorter setback as opposed to the subject
8 property. It really does lend itself perfectly
9 to the use it's been using for the last 30, 40
10 years. The only difference now, it meets all
11 the County standards.
12 The other standard, length
13 of time the property has been vacant, it hasn't
14 been vacant, it's been totally used. It was
15 used when I was with the County and it's still
16 used today, and they're proposing to continue
17 the use operating, but again, meeting all the
18 standards.
19 In terms of the property
20 values, I'm not an appraiser. So, that is the
21 extent of my presentation.
22 CHAIRMAN KARTHOLL: Can I ask you sort
23 of an esoteric question. Usually when we talk
24 about trend of development, we get a lot of

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1 testimony about what's gone on recently, but
 2 there's been nothing that's gone on recently.
 3 So trend of development here is not so much
 4 recent trend, but longstanding development.
 5 MR. ABEL: Yeah, I would say when you
 6 look at trend of development, there are newer
 7 uses that have come in. The Public Storage is
 8 relatively new, it doesn't go back to the -- it
 9 was after 2000. When you consider the extent,
 10 but not only that, there is turnover.
 11 Most of these uses, the Wind
 12 Mail, Wing Stop, couple of others, the
 13 preschool, I stopped them and asked them how
 14 long they've been there. Those are all
 15 relatively new uses. You're able to pull up
 16 aerial photographs that show the types of uses
 17 that were in this corridor. And then I went
 18 out to the field and I could see where there's
 19 been turnover. So it's primarily one retail
 20 use going to another.
 21 CHAIRMAN KARTHOLL: Okay.
 22 MR. ABEL: But the trend of development
 23 is definitely still a heavily-used corridor
 24 with just about every type of use you could

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1 think of: Bowling alley, storage, you can see
 2 the heavy truck operations, all the way to just
 3 a beauty parlor.
 4 CHAIRMAN KARTHOLL: Okay, thank you.
 5 MR. ARMSTRONG: One thing I wanted to
 6 follow up on, I mentioned all the different
 7 types of zoning here. It's probably easier to
 8 look at your Surrounding Land Use and Zoning
 9 Exhibit, it's Exhibit No. 3.
 10 So the subject property is
 11 B-1, immediately adjacent to it on either side
 12 is B-1, but as Mr. Abel said, the property to
 13 the west, adjacent to the west, is vacant
 14 because it's got drainage issues. Next to that
 15 to the west is B-2, the zoning we're
 16 requesting. Next to that is also B-2. So both
 17 the east and west sides of Wheaton Road is the
 18 closest road to the subject property are B-2.
 19 Next to that going -- continuing to go west is
 20 Office Research, next to that is Manufacturing,
 21 and then next to that west is a long stretch of
 22 B-2. So a lot of different zones. There's not
 23 uniformity, but specifically a lot of B-2
 24 zoning, the zoning we're requesting.

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1 To the east of course
 2 there's the Bloomingdale Planned Development
 3 for multi-family houses, and then again then
 4 B-2, an island of B-2 zoning in the County to
 5 the east on Lake Street.
 6 So, as I said, there's a lot
 7 of different things, but there's a lot of B-2
 8 zoning. So it is consistent with the zoning
 9 use of the surrounding area.
 10 CHAIRMAN KARTHOLL: Okay.
 11 MR. ARMSTRONG: I'll talk briefly about
 12 the suitability. I think it's -- the property
 13 is suitable -- better suited for B-2 zoning, as
 14 we see from a couple things: The use. It's
 15 been used for a contractor yard, a contractor's
 16 office and yard for, as Joe said, at least 30
 17 years. Not always owned by this petitioner,
 18 but by previous owners. Same use, contractor's
 19 office and yard. If it was suitable for any
 20 other use, somebody else would have bought it
 21 and used it for some other purpose, but it's
 22 not suitable for any other use, that's why
 23 these petitioners bought it to continue to use
 24 it as a contractor's office and yard.

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1 Lastly, I think the same
 2 thing applies with respect to property values.
 3 Changing from B-1 to B-2 is not going to
 4 adversely affect any nearby property values
 5 given the uses and zoning that are the nearby
 6 properties. And, you know, it's -- given that
 7 it's been used for those purposes for 30 years,
 8 that is the appropriate, suitable use for the
 9 property and it needs to be zoned accordingly
 10 consistent with the other B-2 zoning in the
 11 area, and consistent with the use. That's what
 12 makes it suitable.
 13 So with that, very briefly,
 14 rezoning it to B-2 is consistent with both the
 15 surrounding zoning; both the surrounding
 16 properties and the use of the surrounding
 17 properties; it's consistent with the trend of
 18 development, to the extent there is a trend
 19 given what the Chairman's comments highlighted.
 20 A lot of these have long been established
 21 there. It is suitable for B-2 and it isn't
 22 really very well-suited to B-1, and there is no
 23 diminishment of value to surrounding property
 24 by changing it to B-2.

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1 So, with that, we request
 2 that you recommend changing the zoning to B-2.
 3 CHAIRMAN KARTHOLL: Even though I
 4 suggested that the current use and anticipated
 5 use are immaterial in a straight rezoning
 6 issue, it does sort of tie in to your request
 7 for variation because the current use and
 8 situation of the buildings and signs, et
 9 cetera, all are grandfathered pre-existing uses
 10 which are otherwise out of sync with various
 11 setbacks. Once you rezone, all those
 12 grandfather issues disappear, and so the
 13 advantage -- you're shaking your head, Joe,
 14 because I'm only restating what you testified
 15 to. So we agree. That all goes away and the
 16 advantage then to the surrounding area of the
 17 County is that we are in compliance with
 18 setbacks and, you know, various other zoning
 19 restrictions.
 20 MR. ARMSTRONG: Right. We take a
 21 property that because of its age and
 22 grandfathered status is not currently -- not in
 23 compliance with the current requirements and
 24 we're going to upgrade to comply with the

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1 current requirements.
 2 CHAIRMAN KARTHOLL: Okay. We may hear
 3 more about use based on the comment that I have
 4 from the neighbor, which I'll read into the
 5 record when we get to the public comment
 6 section.
 7 Are there any questions
 8 about the rezoning standards or particular
 9 questions of either of the witnesses here by
 10 other members of the Board?
 11 (No response.)
 12 CHAIRMAN KARTHOLL: Okay. Then I'll
 13 take public comment on this case. Let me first
 14 recognize that I have a written comment which
 15 we'll make part of this record in the form of
 16 an email to our staff representative by Ms.
 17 Nicole Toth. I'm not sure I'm pronouncing the
 18 name -- so I had that written comment.
 19 And then are there any other
 20 members of the public that would like to make a
 21 statement about this case? Anybody that wants
 22 to speak, please raise your hand and I'll have
 23 you all sworn in at the same time. Four
 24 people? Excellent. Would you stand, raise

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1 your right hand, and all be sworn in.
 2 (Whereupon, the oath was
 3 duly administered by the
 4 Notary.)
 5 CHAIRMAN KARTHOLL: Great. When you
 6 begin, tell us your name, spell your last name
 7 for the court reporter's convenience, and tell
 8 us your address and where you are in
 9 relationship to this property. Then tell us
 10 whether you support, oppose or just have a
 11 general public or general remark about the
 12 case. And each of you will be given up to
 13 three minutes. So who would like to go first?
 14 Go right ahead.
 15 MS. FIGURELLA: My name is Autumn
 16 Figurella, F-i-g-u-r-e-l-l-a. My address is
 17 6N310 Wheaton Road in Roselle. I oppose the
 18 rezoning, and I have the following statements:
 19 We as a neighborhood have already experienced
 20 issues with this property with its current
 21 zoning of B-1, and if nothing is going to be
 22 changing with the operations, I don't see the
 23 benefit of changing it to B-2 which will just
 24 further allow additional noise.

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1 The gentleman mentioned that
 2 this is not a neighborhood, but I know it is
 3 because I live there. In fact, it's a quiet
 4 neighborhood where people have lived for
 5 decades. We have present children of people
 6 who grew up in this neighborhood that purchased
 7 property within the neighborhood because it's a
 8 nice little, rural haven. There's still horses
 9 and chickens in our neighborhood, and we don't
 10 want to live in a noisy urban environment,
 11 that's why we've selected Keeneyville to live
 12 there. We like having large yards because we
 13 enjoy being outside enjoying our property, and
 14 the quiet enjoyment of our property is
 15 interrupted by the activity that's already
 16 happening at this property.
 17 So, I canvassed the
 18 neighborhood with my husband, and of the
 19 neighbors that we found home, only two did not
 20 sign the petition that I have presented here,
 21 one because he was a renter and felt his voice
 22 wouldn't matter, and the other who said he had
 23 already taken measures of his own. So, as far
 24 as I'm concerned, that's 100 percent opposition

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1 of all people who live in the block around this
 2 subject property that oppose this zoning
 3 petition.
 4 The current zoning when I
 5 read that is intended -- does seem to be
 6 retail, commercial retail that butts up to
 7 residential. When you read the type of things
 8 that would be included, things like antique
 9 shops and book stores, those are things,
 10 businesses that would be keeping normal retail
 11 hours, not 4:30 in the morning, not 10:30 at
 12 night, not heavy equipment, not banging on
 13 metal, idling concrete trucks, skid steers,
 14 parties even. Those types of businesses would
 15 not be having that type of activity.
 16 We also have concerns about
 17 them polluting the aquifers because we're all
 18 on well water. They're washing out their
 19 concrete trucks, other landscaping chemicals
 20 that, again, I feel that intrudes on my right
 21 to enjoy my property in the way that I intended
 22 when I purchased my home.
 23 CHAIRMAN KARTHOLL: Okay, thank you.
 24 MS. FIGURELLA: Can I submit this to

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1 you?
 2 CHAIRMAN KARTHOLL: Yeah. Let me see,
 3 we have some requirements as to forms and
 4 petitions. Thanks.
 5 MR. FIGURELLA: We didn't really have a
 6 lot of time to get it together, so we did the
 7 best we could.
 8 CHAIRMAN KARTHOLL: Okay. I need -- who
 9 circulated the petition?
 10 MS. FIGURELLA: I did. My name is the
 11 first one on the list.
 12 CHAIRMAN KARTHOLL: And you witnessed
 13 this -- although many of these are just printed
 14 names, not signatures.
 15 MS. FIGURELLA: That is --
 16 MR. FIGURELLA: That is some people's
 17 signatures.
 18 CHAIRMAN KARTHOLL: Oh, it is? Okay.
 19 Well, I'm not a signature expert. We need a
 20 legend on here that says I am the person that
 21 circulated this petition and all of those who
 22 signed the petition signed in my presence. You
 23 sign that, and then your signature has to be
 24 notarized.

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1 MS. FIGURELLA: I can write that on the
 2 bottom.
 3 CHAIRMAN KARTHOLL: And then you have to
 4 sign it. You need a pen?
 5 MS. FIGURELLA: If you have a pen, that
 6 would be great.
 7 CHAIRMAN KARTHOLL: So who's our next
 8 speaker? Go right ahead.
 9 MS. TOTH: I'm Nicole Toth at 6N257
 10 Wheaton Road.
 11 CHAIRMAN KARTHOLL: Speak up just a
 12 little if you could.
 13 MS. TOTH: I'm at 6N257 Wheaton Road in
 14 Keeneyville. We are the property south of the
 15 company for this. We share a property line
 16 that's pretty long with them, like there's a
 17 fence in between us and them.
 18 I guess we have a lot of the
 19 same concerns that were already pointed out. I
 20 wrote an email because I feel like I
 21 communicate better in writing, maybe, than
 22 verbally, but --
 23 CHAIRMAN KARTHOLL: I'll be the judge of
 24 that.

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1 MS. TOTH: We have the same concerns,
 2 along with the fact there is -- there are
 3 significant piles of debris back there of
 4 questionable quality, we don't know what's in
 5 them, and that just adds to this stormwater
 6 runoff potential and aquifer concerns.
 7 So I mean, really, it seems
 8 like this business is already operating in a
 9 way that's not acceptable to us, so if they
 10 were to get this zoning, that would just allow
 11 more freedom to continue.
 12 I also heard like in the
 13 testimony that they wanted to continue with
 14 status quo. It's not something that we are
 15 comfortable with and I think it does affect our
 16 property value in the sense we're not able to
 17 enjoy it when we're out there. It's always
 18 noisy and we are concerned about our water
 19 quality.
 20 CHAIRMAN KARTHOLL: Okay, thank you.
 21 And your name is T-o-t-h?
 22 MS. TOTH: Yeah.
 23 CHAIRMAN KARTHOLL: Yeah, that's
 24 perfect. You know what, do we have a notary

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1 here?

2 THE COURT REPORTER: I'm one.

3 (Whereupon, the document was

4 notarized.)

5 CHAIRMAN KARTHOLL: Sir?

6 MR. KIRSCH: Hi, I'm Roger Kirsch, I

7 live at -- I own the 266 and 269 Wheaton, which

8 butts right up to the back of it. Couple

9 questions: The VanGundys [phonetic], the

10 people that owned the property previously, I

11 have a question that they were notified that

12 they needed to do some changes to that

13 particular property, and I have questions about

14 what that was all about because the County was

15 asking them to do certain things.

16 CHAIRMAN KARTHOLL: When was that?

17 MR. KIRSCH: Gosh, how long have the

18 VanGundys been gone, eight or ten years maybe?

19 CHAIRMAN KARTHOLL: This isn't the place

20 to address that.

21 MR. KIRSCH: Well, the reason why I'm

22 bringing that up is because if there was a need

23 to change at that time, we still need to change

24 now; okay? If there was this issue was back

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1 eight, ten years ago, you would think the issue

2 would still be here because there is no change

3 in the property usage is what I've been

4 hearing; therefore, I'm presenting that as a

5 question mark.

6 And then also the fence line

7 that's in the back that's proposed, do you know

8 how tall that fence line is? They don't give

9 us a height on that fence line.

10 CHAIRMAN KARTHOLL: I have no idea.

11 MR. KIRSCH: Okay. I have concerns

12 about that because of our site, we are directly

13 connected to it.

14 And, again, I want to

15 reiterate what was said here previously, the

16 garbage that's sitting back there and the

17 trucks and the way they're rinsing their trucks

18 off, it's seeping into our soil because we're

19 down lower and it drains right through to our

20 property. And we are all on well systems, so

21 we have a great concern about that.

22 Just also the B-1, B-2 and

23 all that stuff, I heard a lot of talk about the

24 corridor, but I think you guys need to consider

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1 the neighborhood that's back there. We're the

2 people who live there every day, 24 hours a

3 day, 7 days a week, 365 days a year.

4 That's my comments.

5 CHAIRMAN KARTHOLL: Okay. And then the

6 final person?

7 MR. FIGURELLA: Similar statement.

8 Lucas Figurella, I live at 6N310 Wheaton Road,

9 just across, and I have a clear shot of them

10 right through my neighbor's yard, so very

11 familiar with the property. We understand

12 having a commercial landscaping business in the

13 neighborhood, we really do, but there's a

14 difference between a place where people could

15 go to buy mulch and plants and things for

16 landscaping versus a company who's specifically

17 there to do concrete and asphalt, large

18 industrial work. That's not normal B-2

19 business.

20 We understand having an

21 office where they could have a place to do,

22 like, design layouts, handle permits, handle

23 billing issues, that makes perfect sense to

24 have a business that would operate like that,

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1 not a place where they're storing heavy

2 equipment, maintaining that heavy equipment

3 that makes loud noises every time it's started

4 up, it makes loud noises every time it's put

5 into reverse, there's backup sirens. The

6 tailgates on the dump trucks, every time they

7 drop we hear them smack through the yards, it

8 echoes through the whole neighborhood.

9 So we're concerned not only

10 about the potential for pollution through

11 contaminants, they've had gray in their back

12 yard wash through when it rains because of them

13 cleaning out the concrete trucks, but also the

14 noise pollution that it's causing in the

15 neighborhood.

16 So, if anything, we oppose

17 this and we would hope that they would be made

18 to remove the industrial equipment that they

19 already have on a business property. That's

20 not a commercial. Concrete trucks and dump

21 trucks is not normal business operating, that

22 is an industrial use.

23 And I understand that he

24 said that that property has been operating that

<p style="text-align: right;">Page 38</p> <p>1 way for 30 or 40 years, but I've lived on that 2 street for nearly 30 years, I bought a house on 3 that street because I liked it so much, and 4 this is not the way it operated for 30 or 40 5 years. And the last three or four years since 6 Fortis has been there, this noise level and 7 this contamination and everything else has 8 exponentially increased, so this is not the way 9 that it has been for years. 10 And as far as it not 11 affecting property value, personally I 12 wholeheartedly disagree with what this 13 gentleman said. I would not have bought my own 14 house for what I paid for it dealing with the 15 noises that we hear coming from them. So if I 16 would have not bought my house, I doubt anyone 17 else would either. 18 Thank you. 19 CHAIRMAN KARTHOLL: Thank you very much. 20 What are the hours of 21 operation? 22 MR. ARMSTRONG: They typically start 23 early in the morning like all contractors do, 24 6:30 or so, and they typically are done in the</p>	<p style="text-align: right;">Page 40</p> <p>1 CHAIRMAN KARTHOLL: Yeah, I'll go to you 2 in just a moment. 3 Any other remarks from the 4 Board members? Mr. Moran? 5 COMMISSIONER MORAN: We some pictures of 6 spoil piles. Is that frequent with the 7 contractor business that you're going to have 8 spoil piles in the back there? 9 MR. ARMSTRONG: Well, what happens with 10 those is when they work on a job site, 11 sometimes they have spoil piles. When they 12 finish the job after the time that the dump or 13 the ultimate destination for those closes, 14 which closes earlier that they typically finish 15 the work, they bring them back, they haul them 16 off, they have -- two to three times a month 17 they have that hauled off. So it is coming in 18 and it's being hauled off, you know, two to 19 three times a month. Two to three times a 20 month it's hauled off. So, it's temporarily 21 there, and the reason is there's nowhere else 22 to put it because 5:00, if we finish a job, the 23 dumps are closed, you can't take it to a dump 24 at that time of day.</p>
<p style="text-align: right;">Page 39</p> <p>1 afternoon, late afternoon. They do have -- I 2 think on some weekends they have people there 3 cleaning trucks, cleaning equipment, doing that 4 sort of thing, but they're not operating -- 5 they're not operating on weekends, they're 6 doing kind of maintenance of their equipment, 7 cleaning-their-equipment-type of stuff. But 8 Monday through Friday it's 6:00ish, 6:30ish to 9 4:00, 4:30. 10 CHAIRMAN KARTHOLL: And we've talked a 11 lot about the use having existed there for some 12 many years. What about this particular 13 operator, how long has this company operated at 14 the site? 15 MR. ARMSTRONG: Four years. 16 CHAIRMAN KARTHOLL: Four? 17 MR. ARMSTRONG: Four. 18 CHAIRMAN KARTHOLL: Okay, I didn't know 19 if you said 4 or 40. 20 All right. Well, I'm going 21 to save the rest of my remarks for the 22 recommendation meeting. 23 MR. ARMSTRONG: Mr. Chairman, is it okay 24 if I just briefly respond to --</p>	<p style="text-align: right;">Page 41</p> <p>1 Any other questions? 2 COMMISSIONER KETTER: Just out of 3 curiosity, you said 6:30-ish and your client 4 kind of shook his head. Is it 6:30-ish? 5 UNIDENTIFIED SPEAKER: It's 6:00, 6:30. 6 COMMISSIONER KETTER: Okay. 7 CHAIRMAN KARTHOLL: Well, we may impose 8 time limits as we consider that question. 9 Okay, any other wrap-up 10 information? 11 MR. ARMSTRONG: I just, you know, there 12 was a comment about the property is industrial. 13 You know the County has a specific definition 14 of industrial use and industrial zoning. That 15 is not this, this is within -- clearly within 16 B-2, and this is the definition of B-2. 17 And then just a bigger 18 picture -- 19 CHAIRMAN KARTHOLL: Which category in 20 B-2 precisely? 21 MR. ARMSTRONG: This work, the current 22 operation is B-2, yes, contractor office and 23 yard. 24 CHAIRMAN KARTHOLL: Which line item</p>

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1 permitted use under B-2?
 2 MR. ARMSTRONG: Contractor's or
 3 construction offices and shops, including but
 4 not limited to concrete, electrical, printing,
 5 plumbing. Need not be enclosed.
 6 CHAIRMAN KARTHOLL: Contractor yard did
 7 you say?
 8 MR. ARMSTRONG: Yeah. Well, I say
 9 contractor yard because the item in the Zoning
 10 Code specifically says it need not be enclosed,
 11 it doesn't have to be in a building.
 12 CHAIRMAN KARTHOLL: Okay.
 13 MR. ARMSTRONG: And, obviously, it
 14 specifically mentions concrete contractors.
 15 CHAIRMAN KARTHOLL: All right, okay.
 16 MR. ARMSTRONG: And then just kind of
 17 the bigger picture here, the comments, there
 18 were a lot of comments about noise and water
 19 quality and seepage and things. Those aren't
 20 really zoning standards or rezoning standards,
 21 those are regulatory issues that, whether it's
 22 the Stormwater Department or Building
 23 Department or the Illinois EPA, they require
 24 permits to do what they do. And if they don't

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1 have them, those bodies enforce those
 2 regulations. If they're violating rules and
 3 regulations of the County and the State, those
 4 bodies enforce those regulations. This body
 5 just determines the zoning, it doesn't
 6 determine the regulatory affairs or enforcement
 7 of those types of items. That's why we have
 8 the EPA, that's why we have the Stormwater
 9 Department.
 10 So that's all I have to say.
 11 CHAIRMAN KARTHOLL: That's it?
 12 MR. ARMSTRONG: That's it, thank you.
 13 CHAIRMAN KARTHOLL: Well, when I said
 14 I'll reserve the rest of my comments for the
 15 recommendation meeting, that was the heart of
 16 my comment, that our hands are tied to the
 17 zoning questions, the proposed land use plan,
 18 and that offenses of noise, et cetera, need to
 19 be addressed, I think. It appears to be
 20 compelling, but it's out of our hands, and the
 21 neighbors might confer with the staff as to
 22 what the appropriate avenue is to resolve your
 23 issues.
 24 So with that, I guess we're

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1 ready to adjourn for this evening, and once
 2 again December 5 is our recommendation meeting.
 3 There will be no testimony taken at that time,
 4 it's simply a deliberation about this case and
 5 other cases from the Board. You're welcome to
 6 attend. You can also appear on Zoom because it
 7 will be broadcast as this meeting was.
 8 Okay, we'll adjourn for this
 9 evening. Thank you very much to the petitioner
 10 for the presentation.
 11 Mr. Abel, good to see you
 12 again.
 13 And thank you to the
 14 neighbors for your comments.
 15 (Which were all the
 16 proceedings had and
 17 testimony taken in the
 18 above-entitled cause.)
 19
 20
 21
 22
 23
 24

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1 STATE OF ILLINOIS)
) SS.
 2 COUNTY OF DU PAGE)
 3 I, LINDA M. CIOSEK, C.S.R.
 4 No. 084-2892, duly qualified and commissioned
 5 for the State of Illinois, County of DuPage, do
 6 hereby certify that at the request of the DU
 7 PAGE COUNTY ZONING BOARD OF APPEALS, subject to
 8 the usual terms and conditions of Veritext,
 9 reported in shorthand the proceedings had and
 10 testimony taken at the public hearing of the
 11 above-entitled cause, and that the foregoing
 12 transcript is a true, correct and complete
 13 report of the testimony so taken at the time
 14 and place hereinabove set forth.
 15
 16
 17
 18 *Linda M. Ciosek*
 19
 20 CERTIFIED SHORTHAND REPORTER
 21
 22 My Commission Expires:
 23 July 26, 2026.
 24

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