

In the Matter Of:
HAYMARKET DuPAGE LLC

REPORT OF PROCEEDINGS

September 08, 2021

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1 PRESENT:

2 MR. BRENDAN DALY, Chairman;
3 MS. LORI DRUMMOND; Commissioner
4 MR. FRANK CARELLO, Commissioner;
5 MR. JEFFREY HOLMES, Commissioner;
6 MS. KRISTA RAY, Commissioner;
7 MR. ANTHONY RUSSO, Commissioner;

8 ALSO PRESENT:

9 MR. MO KHAN, Village Planner;
10 MS. DEANNE CURELO;
11 CHIEF BURKE;

12 HERVAS, CONDON & BERSANI, P.C., by
13 MR. CHARLES E. HERVAS and MS. YORDANA WYSOCKI,
14 333 Pierce Road, Suite 195
15 Itasca, Illinois 60143
16 (630) 773-4774
17 chervas@hcbattorneys.com
18 Appeared on behalf of the Village of Itasca;

19 DASPIN & AUMENT, LLP, by
20 MS. BRIDGET M. O'KEEFE,
21 300 South Wacker Drive, Suite 2200
22 Chicago, Illinois 60606
23 (312) 258-3795
24 bokeefe@daspinaument.com

and

17 BOND, DICKSON & CONWAY, by
18 MS. MARY E. DICKSON,
19 400 South Knoll Street, Unit C
20 Wheaton, Illinois 60187
21 (630) 681-1000
22 marydickson@bond-dickson.com
23 Appeared on behalf of Haymarket DuPage, LLC;

1 PRESENT: (Cont'd.)

2 FRANCZEK, P.C., by
3 MS. JENNIFER SMITH
4 300 South Wacker Drive, Suite 3400
5 Chicago, Illinois 60606
6 (312) 786-6589
7 jas@franczek.com

8 Appeared on behalf of Itasca School District;

9 JOHNSON & BELL, LTD., by
10 STEPHEN P. ELLENBECKER
11 33 West Monroe Street, Suite 2700
12 Chicago, IL 60603
13 (312) 984-0221
14 ellenbeckers@jbltd.com

15 Appeared on behalf of 865 West Irving Park
16 Road, LLC;

17 OTTOSEN, Di NOLFO, HASENBLAG & CASTALDO, LTD., by
18 MR. STEPHEN H. DI NOLFO
19 1804 North Naper Boulevard, Suite 350
20 Naperville, Illinois 60563
21 (630) 682-0085
22 sdinolfo@ottosenlaw.com

23 Appeared on behalf of Itasca Fire Protection
24 District.

1 CHAIRMAN DALY: Good evening, everyone, and
2 welcome to this meeting of the September 8th, 2021
3 Itasca Plan Commission. I call this meeting to
4 order.

5 The case before the Plan Commission 06:59:
6 is PC 19-014 continued from August 25th. The
7 petitioner and owner is Haymarket DuPage, LLC, and
8 the location is 860 West Irving Park Road. Will the
9 secretary please call the roll.

10 MR. KHAN: Commissioner Carello. 07:00:

11 COMMISSIONER CARELLO: Here.

12 MR. KHAN: Commissioner Drummond.

13 COMMISSIONER DRUMMOND: Here.

14 MR. KHAN: Commissioner Holmes.

15 COMMISSIONER HOLMES: Here. 07:00:

16 MR. KHAN: Commissioner Ray.

17 COMMISSIONER RAY: Here.

18 MR. KHAN: Commissioner Russo.

19 COMMISSIONER RUSSO: Here.

20 MR. KHAN: Chairman Daly. 07:00:

21 CHAIRMAN DALY: Here. I declare a quorum
22 present. The business before the Commission this
23 evening is a public hearing on Case No. PC 19-014.
24 The request is for a petition for a planned

1 development for special use with exceptions and
2 Class 1 site plan approval all in order to permit a
3 mixed-use residential and healthcare facility and
4 other accessory uses in the B-2 community business
5 district at 860 West Irving Park Road.

07:00:

6 At this time, I will now entertain a
7 motion to open this public hearing.

8 COMMISSIONER HOLMES: So moved.

9 COMMISSIONER CARELLO: Second.

10 CHAIRMAN DALY: There's a motion and a second.
11 Will the secretary please call the vote.

07:00:

12 MR. KHAN: Commissioner Carello.

13 COMMISSIONER CARELLO: For.

14 MR. KHAN: Commissioner Drummond.

15 COMMISSIONER DRUMMOND: For.

07:00:

16 MR. KHAN: Commissioner Holmes.

17 COMMISSIONER HOLMES: For.

18 MR. KHAN: Commissioner Ray.

19 COMMISSIONER RAY: For.

20 MR. KHAN: Commissioner Russo.

07:00:

21 COMMISSIONER RUSSO: For.

22 MR. KHAN: Chairman Daly.

23 CHAIRMAN DALY: For. Motion carries. This
24 public hearing is now open.

1 Before we begin with closing
2 arguments by the interested parties' counsels first
3 and the petitioner's last, I would like to entertain
4 a motion to close all evidence in this case.

5 COMMISSIONER HOLMES: So moved.

6 COMMISSIONER RAY: Second. Ray.

7 CHAIRMAN DALY: There's a motion and a second.
8 Will the secretary please call the vote.

9 MR. KHAN: Commissioner Carello.

10 COMMISSIONER CARELLO: For.

11 MR. KHAN: Commissioner Drummond.

12 COMMISSIONER DRUMMOND: For.

13 MR. KHAN: Commissioner Holmes.

14 COMMISSIONER HOLMES: For.

15 MR. KHAN: Commissioner Ray.

16 COMMISSIONER RAY: For.

17 MR. KHAN: Commissioner Russo.

18 COMMISSIONER RUSSO: For.

19 MR. KHAN: Chairman Daly.

20 CHAIRMAN DALY: For. The motion carries.

21 There will no longer be evidence admitted into the
22 case. At this time, I would ask the interested
23 parties' attorneys who is going to begin with closing
24 arguments this evening? Okay. Ms. Smith, the floor

1 is yours.

2 MS. SMITH: Thank you. I'm going to use my
3 time this evening to go over three points. You'll be
4 asked, as part of your role as commissioners, to look
5 at the special-use factors in Section 14.11(7)(A), 07:01:
6 and I'm specifically looking at 1 through 3. These
7 call for findings regarding whether the proposal is
8 in the public interest and general welfare. And all
9 three points I'll be talking about tonight go to
10 those points that you'll be making findings on. 07:02:

11 So the first point I want to address
12 has to do with the economic impact of the proposal
13 and the impact that additional school children
14 will -- will have on the community. So I -- I would
15 put to you that the petitioner's proposal, the 07:02:
16 planned development, will entitle some Haymarket
17 residents that are age 18 to 22 and also some
18 children of Haymarket residents to enroll in local
19 schools. The school district will be obligated to
20 provide educational services, including special 07:02:
21 education services, without additional funding. It
22 is contrary to the public interest and the general
23 welfare for the community to increase the burden on
24 local schools without providing appropriate resources

1 to meet those needs of additional students. And I
2 want to review and highlight some specific evidence
3 that's before you that supports the proposed finding
4 that I just brought to you.

5 So, first of all, is the point that 07:03
6 there will be individuals that are entitled to enroll
7 in local schools based on if the proposal is
8 approved, and there's four different categories of
9 students. The first does involve the mother and
10 child program that we've heard a lot about. That's 07:03
11 the only one. The other three are not contingent on
12 whether the mother and child program ever comes to
13 Itasca.

14 But starting with the mother and
15 child program, if there is a mother and child 07:04
16 program, the children of those parents, the mothers,
17 will unquestionably be entitled to enroll in Itasca
18 school district. Students are eligible for services
19 starting at age 3, and so a 3 to 6-year-old program,
20 these would be students that are school-aged children 07:04
21 and entitled to both enroll and also to what are
22 known as child-find services, evaluative services to
23 determine what their needs are. This is -- you can
24 find support for all of this in Superintendent Benes'

1 testimony and particularly testimony associated with
2 Slide 24 in his presentation.

3 So it is true, if there's ultimately
4 no mother and child program, then that would not be a
5 basis for residency. However, it's the school 07:04
6 district's understanding, and it's been clear in the
7 testimony, that the intent and the desire of
8 Haymarket is to have that program in Itasca; that
9 they will be pursuing that at a future time; and it
10 may even be legally required of them to have that 07:05
11 program here.

12 Again, there's three other bases for
13 individuals to establish residency in the local
14 public schools that are not connected to the mother
15 and child program, so it doesn't matter if that 07:05
16 program never comes to Itasca. The first is that for
17 special education students, the way Illinois law
18 works, residency is determined by the -- the
19 location -- the residence of the parent, not the
20 residence of the child. And this is in the school 07:05
21 code, that it's the residence of the parent. So if
22 parents are residents in Itasca, they would be
23 entitled to send their children to the local public
24 schools. And this is, again, based on the testimony

1 of Superintendent Benes associated with Slide 24.

2 The second is homeless students are
3 entitled to enroll in Itasca if they're in Itasca.
4 So if they -- and there's a broad definition of what
5 constitutes as homeless, so, you know, it's hard to 07:06
6 speculate about all the different pathways. But,
7 again, we heard about a very high population of
8 homeless individuals that reside at the Chicago
9 location, and homelessness is an automatic trigger
10 and entitlement to establish residency. 07:06

11 The other thing about homeless
12 enrollments is that if you enroll as homeless -- a
13 person entitled to enroll as homeless, you don't
14 move -- you're entitled to stay in the district so
15 long as you're homeless. So it's not just for the 07:07
16 period for which the person's getting treatment.
17 Once they're enrolled in Itasca, they can continue in
18 Itasca until they're no longer homeless and establish
19 residency somewhere else. So it's, again, a -- very
20 consequential financially, and when you're looking at 07:07
21 the enrollment projections piece, it's not
22 speculative. It's the law. This is a requirement
23 and how it works. So that's why the district has
24 sought information, sought to be responsible in

1 planning for the education of homeless students that
2 might come to the community based on the proposal.

3 The third way is that 18 to
4 22-year-olds who have not graduated from high school
5 and are eligible for special education services are 07:07:
6 eligible for not only continuing their high school
7 education and earning a diploma but also what's known
8 as transition services; services to support their
9 transition into adult living, which can include
10 vocational training, community recreational life 07:08:
11 training, how to -- you know, how to get a job and
12 access the community. It's really -- it's not maybe
13 your -- what you think of when you think of a high
14 school. This is -- it's a legally mandated part of
15 special education that brings students from high 07:08:
16 school into adult life literally called transition
17 services. So any individuals at Haymarket who are 18
18 to 22, haven't graduated, and residing there or
19 homeless, would be entitled to enroll in the local
20 public schools for transition services. 07:08:

21 So there's no credible contrary
22 evidence that these groups would not be able to
23 enroll in the district. You heard testimony from two
24 different experts presented by the petitioner. First

1 was the Gruen report, and on cross-examination, when
2 asked about his opinion that there would be no
3 school-aged children at Haymarket, Mr. Gruen
4 testified that the basis for his testimony was that
5 Haymarket told him that. That's it. He, quote, took 07:09
6 it as a given there wouldn't be any school-aged
7 children, and he did not engage in any study of the
8 impact of the children because he took it as a given
9 that there wouldn't be any.

10 So that is not credible testimony. 07:09
11 It's not informed testimony. It doesn't help you
12 make a decision. It's just him taking the word of
13 Haymarket, not an -- it's not an expert opinion. He
14 did not employ any expert knowledge, experience,
15 fact-finding, nothing, to come to that conclusion. 07:10

16 The other expert to opine in this
17 area was Mr. Kisiel. Mr. Kisiel testified -- he
18 concluded there would be no cost to the school
19 because there would be, quote, no additional students
20 for them to educate. That's what he said initially 07:10
21 in his testimony. But then on cross-examination,
22 Mr. Kisiel agreed that he does not know the age range
23 of school-aged children in Illinois. He agreed that
24 to educate students age 18 to 22 would, quote, bring

1 some cost. So he had -- he pulled back on his
2 report's conclusion there in his testimony. He then
3 agreed that he based his analysis of school children
4 on the lack of, quote, dwelling units, without
5 knowing whether or not dwelling unit determined 07:11:
6 school residency. It doesn't. That's not a term in
7 school residency. That's not how residency is
8 determined. He didn't know that but yet he was using
9 dwelling units as a basis. So he admitted that.

10 And then, last, he finally agreed 07:11:
11 that, contrary to his report, Haymarket, quote, could
12 have an impact on the school district. I don't know
13 whether it would be significant or not. So their own
14 expert said he doesn't know whether the impact would
15 be significant or not. So there's no testimony, 07:11:
16 again, from the petitioner indicating there would not
17 be a significant impact. He said he doesn't know.

18 So then getting to the cost of these
19 different categories, again, this is not disputed.
20 Superintendent Benes is the only one to testify as to 07:12:
21 what the cost would be. They're in the testimony.
22 He testified child-find services have an average cost
23 of between 1,500 to 5,000; itinerant services, a
24 thousand or more; preschool services, average cost of

1 25,000 or Net Sec (phonetic), the co-op service, as
2 25,000 or more. That was for the special education
3 band of those four.

4 So going to the next band, the
5 general education, if there was a general education 07:12
6 student eligible, the average cost is \$9,311 as the
7 per people cost to educate. For special education
8 student, the average per pupil cost \$27,945.56,
9 according to superintendent Benes' testimony. And
10 then for the 18 to 22 transition services I was 07:12
11 talking about, the testimony is that those range from
12 between 25 to 50,000 per student.

13 So all of these costs, there's no
14 additional funding that will be generated by the
15 proposal to meet the needs of these students. 07:13
16 Haymarket filed for tax exempt status on May 21st.
17 This has been discussed. They withdrew the petition
18 but indicate a plan to re-file. Dr. Lustig testified
19 that he has never offered any funding to the
20 district. He said -- he was asked, and once there 07:13
21 was collaboration you never offered any funding
22 support to the school district, did you? Answer, no.
23 So there's no additional tax support. The tax burden
24 will be spread to the -- to other taxpayers, and

1 there's no direct funding support coming to the
2 school district to support these additional students.

3 So, again, this is why I propose to
4 you that you find that there would be a burden and it
5 would be contrary to the public interest and general 07:14
6 welfare to approve a plan that is going to have an
7 impact on your public schools with no identifiable
8 way to fund that burden.

9 The second topic I will only cover
10 briefly, because others will cover it much more 07:14
11 thoroughly and with greater knowledge. But I did
12 want to make a point, when it comes to emergency
13 support services, the school district relies on
14 those. They rely on those to support in both
15 emergency situations and non-emergency situations. 07:14
16 Superintendent Benes testified to this. It's
17 critical. It's considered a critical partnership for
18 the school district. And over-burdening police and
19 fire has a detrimental impact to the school district,
20 which we just ask you consider along with the other 07:15
21 things you'll be considering on that topic.

22 And the third topic I wanted to
23 address is that the interactions between the school
24 district and Haymarket have led the school district

1 to the conclusion that they have not been a
2 trustworthy partner and that it's not in the public
3 interest to engage with them for these services.
4 Specifically from the testimony, this started in 2019
5 when the proposal was made. The school district did 07:16
6 seek information to identify potential students who
7 may enroll in the district and start a planning
8 process and discussion. The school district conveyed
9 a list of eight questions to Haymarket in order to
10 investigate potential ramifications of the proposal. 07:16
11 To date, Haymarket has not responded to the
12 district's questions. And that's from both Benes and
13 Dr. Lustig's testimony.

14 In correspondence to the school
15 district, after a meeting, Haymarket did acknowledge, 07:16
16 quote, the complexities of the state and federal laws
17 and regulations governing the public school system's
18 responsibilities to children under kindergarten age
19 and particularly to children who may be classified as
20 homeless. That is what we were told initially by 07:16
21 Haymarket. But what you were told and what came out
22 in the public hearing was different. So, first,
23 after acknowledging the complexities, they did not
24 collaborate with the school district to reach a

1 solution to what they identified as complex.
2 Instead, they made a unilateral decision to withdraw
3 the mother and child program and assume to address
4 the school district's concerns without any
5 collaboration or discussion, if that was, indeed, the 07:17
6 case. And then when they came to you to explain
7 their withdrawal of the mother and child program,
8 they described it as an agreement with the school
9 district. So they said, Haymarket -- this is in the
10 record -- Haymarket re-examined the concerns of the 07:17
11 school district, and although Haymarket would prefer
12 to offer a full range of services to its patients in
13 Itasca, we heard from the school district and have
14 agreed to eliminate the program serving young mothers
15 and children from this location. 07:18

16 The school district did not ask them
17 to not serve mothers and children. The school
18 district was trying to plan how to responsibly do
19 that. So for it to be represented to the community
20 that we were a barrier to mothers and children 07:18
21 getting treatment, was a mischaracterization. There
22 was no agreement. There was no ask. It was -- it
23 was planning, responsible planning, of how to support
24 potential students in the community and what that

1 would look like as far as impact.

2 Dr. Lustig testified that I changed
3 the proposal -- and this is the first time we heard
4 the word "fear" -- because the school district's fear
5 that necessarily derived from homeless children. The 07:18
6 school district was not fearful of educating
7 students. The school district was being responsible
8 in assessing what students would come to it, what
9 resources were needed, what planning needed to be
10 made. It wasn't -- they don't fear children. They 07:19
11 don't fear children with disabilities. They
12 responsibly plan and appropriately plan to meet their
13 needs. Totally different. So this really took us
14 aback.

15 This theme of accusing the school 07:19
16 district of fearing children or fearing services
17 continued on April 7th. Counsel Dickson opined at a
18 hearing that, at the school district meeting,
19 Haymarket listened to your concerns that the district
20 had out of fear. She said, we call it fear, because 07:19
21 it's not based on fact. It's based on something.
22 So, again, apropos of nothing, she was supposed to be
23 questioning Mr. Benes, she said in front of you that
24 the district feared and it was not fact-based fear.

1 Contrary to the letter that we got that said our
2 concerns -- they understood that our concerns were
3 based on very complex state of the law. But instead
4 it was portrayed to the community and to the
5 Commission that the school district feared children
6 and feared its responsibilities. Totally not true.

07:20

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07:21

7 As Superintendent Benes said in his
8 testimony, Haymarket's accusations of fear, lack of
9 responsiveness, and disparagement of the school
10 district have been insulting to the school district
11 community. The school district did not participate
12 to oppose Haymarket or oppose drug treatment. It's
13 never opposed drug treatment. It's not opposed to
14 individuals with disability. It has sought to
15 responsibly provide support for the community. That
16 has been the entire aim.

17 The school district places a high
18 value on the responsibility of serving students with
19 disabilities. There's evidence in the record with
20 respect to its state plan performance indicators that
21 showed that it has met all state targets. This is a
22 very high priority of the district, to make sure that
23 it is appropriately serving students with
24 disabilities. They do not come to this issue out of

1 fear.

2 And, lastly, I see in the plan
3 statements tonight that the Haymarket wrote that they
4 have never needed to turn to public schools for any
5 of their clients in 46 years. That, again, is a 07:22
6 troubling commentary to a school district. If you
7 have preschoolers living in your facility, to not
8 connect them -- we're not saying don't connect them,
9 it will be too expensive. We're saying plan for it.
10 Plan for a way to fund it. Make a responsible, you 07:22
11 know, plan for appropriately meeting needs.

12 Preschoolers need to be in school.
13 High-risk preschoolers should be in private school,
14 if they're not in private school. 18 to 22-year-olds
15 who have not graduated from school should access 07:22
16 public school. We're not saying keep these people
17 away from public school. We're saying plan for it,
18 fund it, be responsible about it.

19 So that concludes my three points
20 that I wanted to share with you tonight. Thank you. 07:22

21 CHAIRMAN DALY: Thank you, Ms. Smith, for your
22 closing arguments. Who is next? Mr. DiNolfo, please
23 proceed.

24 MR. DI NOLFO: Thank you, Mr. Chairman. I'm

1 just going to start off by saying that I'm going to
2 try to keep this short, because I know we've had a
3 lot of days of testimony, and I know all of you have
4 been paying attention. So I'm not going to run
5 through every point that probably should be touched
6 upon, because I know that all of you have been paying
7 attention and will consider that when you're making
8 your findings.

07:23

07:23

07:23

07:23

9 So as I sat down to prepare my
10 closing remarks, I went back to the beginning and
11 looked at the testimony and exhibits that Haymarket
12 put forth to in their failed attempt to show how this
13 proposed facility will have little to no impact on
14 the Fire Protection District. What I saw was that
15 Haymarket changed tactics three times.

16 First, there was Mr. Baldwin, and
17 I'll just put it out there that I don't think it went
18 as well as Haymarket thought it would. So fast
19 forward, we have Mr. Dominik. Mr. Dominik testified
20 over many days, and I'm guessing it didn't go as they
21 expected or they thought they needed more, so they
22 put Ms. Kissel on to address EMS use from the
23 facility in the West Loop. What I found was, even
24 with three bites of the apple, Haymarket's three

1 witnesses couldn't agree on a number of the impact.
2 There was no credible number generated by any of
3 them.

4 Now, before I go any further, I want
5 to make one thing clear, because I heard some 07:24
6 comments during public comments. The concerns being
7 raised by the Itasca Fire Protection District has
8 nothing to do the services being proposed at the
9 facility. Chief Burke was clear. He said that he
10 would have the same concerns with any facility that 07:24
11 would flood the Fire Protection District with a
12 23-percent increase in EMS calls. And how do we know
13 that the 23-percent increase is the correct number?
14 Because Mr. Moeller was the only witness to analyze
15 Haymarket West Loop's use of EMS, and, from that, he 07:24
16 calculated what the proposed facility will generate
17 in EMS calls.

18 Now, Haymarket went to great lengths
19 to avoid using the City of Chicago data. Why?
20 Because they knew that if they were to use that data, 07:25
21 that it would cripple their argument of little or no
22 impact on the Itasca Fire Protection District.
23 Mr. Moeller made it clear that data was usable, it
24 was easy to calculate, and it was not as faulty as

1 Haymarket would have you believe. Mr. Dominik went
2 so far as to avoid the use of the City of Chicago
3 data that he piece-mealed together facilities to use
4 in his report in an effort to drive down the number
5 of calls that will be generated by the proposed
6 facility. Don't be fooled. Haymarket West Loop is
7 the only true and accurate comparable to what is
8 being proposed here in Itasca, and that comparable
9 shows that the facility would create a 23-percent
10 increase in EMS called to the Itasca Fire Protection
11 District.

12 Now, when you took your oath of
13 office, it didn't require you to check your common
14 sense at the door, and if you apply common sense to
15 the facts and evidence, the -- only one conclusion
16 can be reached by you, and it's that the single
17 Itasca Fire Protection District ambulance would be
18 overwhelmed with calls if the 242-bed facility was
19 approved.

20 Now, Haymarket, in an attempt to
21 distract you from this fact, has bantered around
22 Elite Ambulance. As a matter of fact, their entire
23 position on the impact to EMS is premised upon the
24 alleged capabilities of Elite. Simply put, I think

1 it could be said that Elite is the linchpin of their
2 argument. So you would think if somebody is the
3 linchpin of your argument, you would have heard them
4 come in and testify to you. But you didn't.

5 As a matter of fact, what did we
6 learn? They refused to come in and testify. Using
7 your common sense, what does that tell you? It tells
8 you that if Elite did appear -- or, actually, I think
9 it tells you that because Elite didn't appear, they
10 had a fear. They had a fear of being cross-examined
11 on their response times and capabilities. They had a
12 fear that the promises set forth by Dr. Lustig and
13 others as to their capabilities couldn't be testified
14 to under oath. That's powerful, the refusal to
15 testify. I think it's fair for this commission to
16 conclude that if they had shown up, it would have
17 been shown that Elite Ambulance is not the savior
18 Haymarket holds them out to be.

07:26

07:27

07:27

07:27

19 As a matter of fact, the only
20 witness you actually heard from that had direct
21 dealings with Elite was Chief Burke. Haymarket's
22 never dealt with Elite. Mr. Dominik's never dealt
23 with Elite. It was Chief Burke. And the last time
24 he spoke to you folks, he shared with you an event

1 that occurred at Forestview, where it took 90 minutes
2 for the needed ambulance from Elite to arrive. 90
3 minutes. Now, I know I heard it, and I'm sure you
4 all heard it many times said by Dr. Lustig, that
5 people coming to Haymarket have a life-threatening 07:28
6 condition and that many would require EMS services.
7 Do you think Haymarket is going to wait 90 minutes
8 for an ambulance? No, they're not. What are they
9 going to do? They're going to call the Itasca Fire
10 Protection District who is obligated by law to 07:28
11 respond every time.

12 So what does that mean? Well, that
13 means the single ambulance of the Itasca Fire
14 Protection District would be tied up at Haymarket
15 15 days per year solely to address their demand. 07:28
16 That means for all the others who may need help,
17 longer wait times for those just to get the help they
18 need, because the ambulance is going to have to come
19 from somewhere other than Itasca.

20 Now, I know you're going to hear 07:29
21 from Haymarket about capacity, but as has been their
22 method in this whole proceeding, they just talk about
23 capacity without talking about impact. And we've had
24 a lot of discussions about impact and what are the

1 impacts of a 23-percent increase in calls is the
2 collision of calls; meaning, the Itasca ambulance
3 will be tied up dealing with Haymarket leaving others
4 to respond to other emergencies within the Village.

5 I probably assume -- and, actually, I got the
6 handout, it was confirmed, that you're also going to
7 hear that Haymarket offered an ambulance. Let's be
8 cleared they offered an ambulance to the Village.

9 Last I checked, the Village doesn't do EMS. I will
10 tell you they never offered an ambulance to the
11 Itasca Fire Protection District.

12 But offering an ambulance to the
13 Itasca Fire Protection District is a hollow offer.
14 Why? Because you need people to sit in the
15 ambulance, and, as Chief Burke told you, to hire six
16 paramedics to staff that ambulance is somewhere
17 between 700 and \$750,000 a year; money the Fire
18 Protection District does not have. No grants, no
19 promises, no "I'll work with you" can guarantee
20 \$750,000 to staff an ambulance. It's a hollow offer.

21 I'm guessing next you're going to
22 hear about MABAS. We know we heard lot about it
23 during the testimony. The testimony is clear. MABAS
24 is not designed to cover any fire department's

1 day-to-day operations; meaning, it's not their second
2 ambulance. Yes, Itasca Fire Protection District has
3 an agreement with Wood Dale but, you know what, Wood
4 Dale wants their ambulance in Wood Dale as much as
5 possible. And you're going to probably hear about 07:31
6 the numbers, because if you remember when Chief Burke
7 was testifying, we spoke about numbers from the State
8 Fire Marshal's office. He point blank told you under
9 oath those numbers aren't right. Nobody came in to
10 say he was wrong. As a matter of fact, in your 07:31
11 exhibits is the Fire Protection District's numbers.
12 They differ wildly from what the state came up with.
13 I would tell you that when you listen to these
14 arguments about what MABAS is and who is doing what
15 and covering what, remember what Chief Burke said. 07:31
16 The numbers aren't right.

17 The last thing I want to touch on is
18 the proposed facility itself. As I said to you, a
19 lot of what you're going to do is apply common sense
20 to the facts and evidence. And I can sit up here and 07:32
21 go through line by line where Haymarket has done
22 nothing to negate Mr. Moeller's opinion of the impact
23 of this facility. They can't, because they refuse to
24 use the data that is the most comparable to what

1 they're proposing here. They can try to use smoke
2 and mirrors to distract you from this, but the bottom
3 line is the data from their own facility in the West
4 Loop supports that there's going to be 379 additional
5 calls a year to the Itasca Fire Protection District,
6 conservatively.

07:32

7 After looking at all the evidence,
8 common sense tells you that a 242-bed facility with
9 inpatient and outpatient services that will generate
10 a 23-percent increase in calls to the Itasca Fire
11 Protection District will have a detrimental effect on
12 the fire district and, more importantly, a
13 detrimental effect on the health, safety, and general
14 welfare of the citizens the district serves.

07:33

15 I thank you for your time and
16 attention throughout these proceedings. It's been a
17 pleasure appearing before you.

07:33

18 CHAIRMAN DALY: Thank you, Mr. DiNolfo, for
19 your closing arguments. Mr. Ellenbecker, the floor
20 is yours.

07:33

21 MR. ELLENBECKER: Thank you, Chairman Daly.

22 Through the last two years and two
23 applications, Haymarket has yet to offer or suggest
24 that the facility size could be smaller. Perhaps

1 something similar to what it requested in Wheaton or
2 something in-between 16 and 244. Thus, it's 244 beds
3 are bust at this point for Haymarket. Its whole
4 mission, then, has been driven to get what it wanted,
5 not what Itasca can handle. That is not a
6 partnership, but it does explain many of the
7 inconsistencies that you've heard over the better
8 part of two years.

07:34

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9 At times, Haymarket seemed willing
10 to say whatever it felt was needed or whatever it
11 thought you wanted to hear to get what it wanted.
12 Simply put, Haymarket put the cart before the horse
13 on this one. It determined or selected a facility
14 and a size before ever determining whether it was a
15 fit. It bought a facility for over \$7 million before
16 it had your approval or the Village council's
17 approval. It bought a facility that requires a high
18 occupancy, despite the fact that it doesn't fit the
19 location.

20 Haymarket's pending application, as
21 was stated at the beginning of this proceeding, is
22 twofold; mixed use and planned development.
23 Haymarket has skirted the issue of a planned
24 development for the better part of two years. When

1 it has addressed it through its experts, its had its
2 experts say that it's not a planned development.
3 That's not addressing it. That's avoiding it. On
4 that basis alone, you can recommend to the Village
5 board that it not approve this application.

07:35

6 While failing to address the planned
7 development aspect, Haymarket as instead focused
8 almost in exclusively on the fact that it wants to be
9 a healthcare facility or a hospital. While it wants
10 to claim it's like a hospital, it's not certified or
11 licensed like the hospital. It's not certified by
12 the JCAHO, like hospitals are. While wanting to say
13 it's a hospital, the average stay at a hospital is
14 four-and-a-half days. While Dr. Lustig has told us
15 the average stay at Haymarket would be 90 days.

07:35

07:36

16 Through the better part of these two
17 years, Haymarket has not established that its
18 proposed use in is the public interest of Itasca. It
19 has not established that the proposed use at the
20 particular location is necessary or desirable to
21 provide a service or facility that's in the interest
22 of the public convenience of Itasca or that it will
23 contribute to the general welfare of Itascans. It
24 has not established that it will not be detrimental

07:36

1 to the health, safety, morals, or general welfare of
2 persons residing or working in Itasca or that it
3 would be injurious to property values in Itasca.

4 Dr. Lustig, way back in November of
5 2019, said that he was responsible for all the 07:36
6 filings in this proceeding. He said he was
7 responsible for all the evidence that would be
8 presented in these proceedings. He told me that
9 Haymarket was putting its best foot forward.

10 Haymarket's best foot has failed to satisfy the 07:37
11 standards necessary for obtaining the special-use
12 permit sought.

13 We've heard that DuPage County needs
14 this, but no person from the DuPage County Board has
15 come before you in support of that position. We have 07:37
16 heard it's in the public interest, that this
17 particular location is necessary or desirable, but no
18 politician from DuPage County has supported that. We
19 haven't even heard that this location is ideal for
20 any of the needs for DuPage County from DuPage County 07:37
21 politicians.

22 Haymarket brought in Mr. Kisiel to
23 talk about a potential economic benefit that this
24 proposed facility would provide to Itasca. I'm not

1 an economist. I'm not an accountant. But the best I
2 could glean is that we could hope for Haymarket
3 employees stopping at a gas station for some gas and
4 a granola bar on the way home. That is not a
5 discernable economic benefit to this town.

07:38

6 Former Lieutenant Governor Evelyn
7 Sanguinetti came in to read a letter to you, but
8 because she read that letter, she was subject to
9 cross-examination. She told you about the task force
10 she traveled around the state for with regard to
11 opioid abuse treatment and trying to tackle that
12 problem, and she told me, and you heard it, that
13 despite traveling all around the state and hearing
14 about all the problems, nobody ever identified this
15 town as a position or a location that would be best
16 situated to help DuPage or the collar counties.

07:38

07:38

17 Mr. Polach was brought in to try to
18 convince you all that there would be no negative
19 impact on property values. Mr. Polach could not find
20 an equally large facility to compare it to, he could
21 not find an equally small village or town to compare
22 it to, and, as a result, Mr. Pollock's testimony is
23 without a comparable facility or town for us to
24 measure his testimony against. In lieu of testimony,

07:38

1 Haymarket has brought you letters simply marked as
2 exhibits. Nobody to raise their hand, take an oath,
3 and promise to tell the truth and be subject to
4 cross-examination.

5 We got a letter from CARF, the
6 Commission on the Accreditation of Rehabilitation
7 Facilities. No one came to testify from CARF. We
8 just heard recently about a letter from Alderman
9 Tunney down in the city. That letter is emblematic
10 of what's been done through the admission of exhibits
11 in letter form. Alderman Tunney says that Rosecrance
12 is an asset to Lakeview. Rosecrance is not 244 beds.
13 Rosecrance is in the City of Chicago, not a small
14 suburb, and Rosecrance does not offer detox services.
15 It sends those patients to Rockford.

07:39

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16 There's been a lot of testimony on
17 the effect of the proposed facility on the EMS, and
18 I'm not going to go into the detail that Mr. DiNolfo
19 did. Haymarket wants you to rely on Mr. Dominik and,
20 in so doing, wants you to base your decision on
21 Mr. Dominik's effort to minimize the impact this
22 facility would have on EMS. Instead of using
23 Haymarket West Loop, Mr. Dominik came up with excuses
24 to exclude it. There's no method of using

1 comparables like he did that could be cited that
2 omits the best comparable facility, but that's
3 exactly what Mr. Dominik did. If Mr. Dominik is
4 wrong, as the FOIA info suggests he is, it is Itasca
5 that suffers, not Haymarket. It will still get the 07:40
6 services somehow. Itasca cannot afford for Jim
7 Dominik to be wrong.

8 Haymarket wants us to believe that
9 Elite is the answer. Mr. DiNolfo covered Elite. We
10 didn't hear from anybody from Elite. We heard 07:41
11 Haymarket tell us what Elite could and couldn't do
12 but that's not the same. Instead we got a
13 boilerplate letter that was basically a promotional
14 advertisement. Are we going to bet that Mr. Moeller,
15 Chief Burke, and the FOIA data are wrong? And 07:41
16 Mr. Dominik, the lone wolf, is right?

17 Despite knowing it was an issue and
18 putting up it's own CFO to discuss the FOIA data way
19 back in 2019, Haymarket waited another 18 months
20 before it went back into its own records. 07:41

21 Understand, Haymarket also told all of you that it
22 was incapable of looking through its records before
23 that ever happened because they said we don't track
24 that data, but after 18 months, somehow they were

1 able to. If this proves to be one of the multiple
2 instances of Haymarket simply saying what the
3 Commission may want to hear, our Chief Burke has
4 spelled out the problems that will cause a shortfall
5 of emergency resources that are detrimental to the
6 general welfare of Itasca. 07:42

7 Haymarket says it will have its
8 patients' best interests in mind but knowing full
9 well that the closest hospital is Alexian Brothers,
10 it has never talked to any of the top brass at 07:42
11 Alexian to find out if they can even handle any
12 increased load in its emergency department.

13 People spoke in support of
14 Haymarket. You heard them. They came from Oswego,
15 Naperville, Hinsdale, Villa Park, Bloomingdale, 07:42
16 Wheaton, DuPage, and the collar counties. Only one
17 came from Itasca and that was Pastor Butler. No
18 Haymarket in those other towns, but they're quick to
19 say that Itasca is the place it should be.

20 Haymarket got the cart before the 07:42
21 horse -- I said it once already -- when it purchased
22 the property, and now it's plowing forward no matter
23 what's in its way. They are already listing their
24 services in DuPage County in the Itasca Yellow Pages.

1 Interestingly enough, the number listed goes to a
2 company called Heavyweight Air Express. I don't know
3 what the explanation for that is.

4 Mr. Butler urged this commission to
5 let love prevail. Itasca is not being asked to do 07:43
6 its part. Itasca is being asked to do everyone's
7 part all on its own. The reality is that public
8 institutions like Itasca, while tempted to be moved
9 by emotion and love, ultimately cannot make decisions
10 based on emotion because it decides, you decide, for 07:43
11 now and the future for the Itasca public. I
12 mentioned it before, but no DuPage or Illinois
13 politician, for that matter, has come and told you
14 that this facility in this location is the best
15 solution for DuPage and the collar counties. 07:43

16 In some areas, Itasca is financially
17 strapped. We had to take out a referendum for our
18 fire department. It's a burden to the EMS, yet no
19 DuPage County official has come and tried to allay
20 any of our fears in that regard. We can't believe 07:44
21 something, as tempting as it may be, just because
22 Haymarket or its lawyers have said it. We've been
23 burned too many times. We've heard that Haymarket is
24 great at what it does. There's been no accreditation

1 body coming in to support that. There's been no
2 witness or peer person, peer psychologist or
3 rehabilitation specialist, that's confirmed that.

4 We heard Dr. Lustig in response to
5 the property value issue tell us all that you can't 07:44
6 touch a condo for 800K in the West Loop. But on
7 cross-examination, he said he wouldn't be surprised
8 if you could find a property for less than that, and
9 it turned out his property value research was based
10 on him taking a walk around the block. We heard 07:44
11 before that Haymarket would buy Itasca an ambulance
12 but wouldn't commit to staffing it. But by the time
13 Commissioner Drummond asked Dr. Lustig about it, the
14 offer had already been pulled off the table, at
15 page 100 of the transcript. 07:45

16 We've heard that the property being
17 an extended stay hotel was a deciding factor, but
18 shortly after we were told it's not an extended stay
19 hotel. I guess Tesca got that wrong. We were told
20 the Holiday Inn was failing anyway. As an initial 07:45
21 matter, just because it was a failed hotel or may
22 have been, doesn't mean it is the proper fit. No
23 person from Holiday Inn has come and confirmed that
24 that Holiday Inn was not a going venture or could be

1 made a going venture.

2 We've been told that the Itasca
3 facility would be a great location for a rehab
4 facility, but on cross-examination, Dr. Lustig said
5 he didn't even know that there were triggers situated 07:45
6 across the street; liquor stores, bars, and gaming
7 facilities. We've been told that the location is
8 conducive because of its proximity to public
9 transportation. Dr. Lustig said he didn't know where
10 the trains went. He didn't know where the buses 07:46
11 went. In fact, when I asked did you know that the
12 only bus, which now doesn't visit Itasca, only went
13 north? He said, I'm indifferent to that.

14 Indifference to that. No trains, no buses service
15 Itasca to the rest of DuPage and the collar counties. 07:46

16 We were told that they will work
17 with school districts and taxing bodies to get grant
18 money, but on cross-examination Dr. Lustig said
19 they've never done it before. Haymarket said it had
20 a \$500,000 grant but that disappeared. Haymarket 07:46
21 presented FOIA data through Mr. Baldwin and
22 represented that that data showed there would be a
23 low impact on EMS. But Mr. Baldwin, on
24 cross-examination, acknowledged that they didn't

1 present the data for all of the addresses at which
2 Haymarket does business.

3 Haymarket has taken the position
4 that the best rehabilitation success comes when the
5 facility is right next door. They've even said that 07:47:
6 it wouldn't make sense -- and this was to allay our
7 fears, maybe to tell you what you wanted to hear --
8 it wouldn't make sense to transport patients from
9 Chicago West Loop to Itasca. Don't worry about that.
10 We're not going to do it, because it doesn't make 07:47:
11 sense to transport patients 32 miles. We're told
12 this is for the DuPage and the collar counties.
13 Naperville is 32 miles away. Dr. Lustig didn't know
14 that, didn't know how many people were there, or in
15 Wheaton. 07:47:

16 Even without public transportation,
17 we were told Haymarket had vans to go pick patients
18 up. But then Dr. Lustig says at page 44, it would
19 not make business sense -- I repeat, it would not
20 make business sense -- to transport patients from 07:47:
21 Naperville to Itasca. The largest town in DuPage
22 County. A county that Haymarket is claiming this
23 facility is needed for. It would not make business
24 sense to transport a patient from there to here.

1 We're told that this facility is for DuPage County
2 residents, but Dr. Lustig and a local politician,
3 while this application was pending, made and posted a
4 video and said this Itasca facility is for the collar
5 counties. See Dr. Lustig's testimony at page 43.

07:48

6 Dr. Lustig told this commission and
7 this town that Haymarket wanted to be a partner with
8 this community. However, in the video I mentioned,
9 they state that the decision is not about the
10 community. See page 44 or 43 of the record. In that
11 same video, they state that this decision and
12 application is about being drawn to a building, a
13 bunch of bricks, not Itasca. See page 42.

07:48

14 Interestingly, I then asked
15 Dr. Lustig if he was drawn by a building and nothing
16 about the area. And he said not so fast. It's also
17 your public transportation. Well, we know that's not
18 true. We were also told, and we've been repeatedly
19 reminded, that Haymarket utilizes evidence-based
20 methods. We've seen no publications or accrediting
21 body supporting that. We've had no rehabilitation
22 expert confirming that. They're basically saying
23 that this is what we do and, therefore, it's evidence
24 based. What we do know, though, because we asked, is

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1 second to the West Loop facility, this would perhaps
2 be the second largest rehabilitation facility in the
3 United States. For all the talk about evidence-based
4 care, there's no evidence to base having a facility
5 this large. There's no evidence saying if there's a
6 need, you should fill the need in one location.
7 There's no evidence to support placing a facility
8 this large in a town this small. There's no evidence
9 that if large facilities were the answer, shouldn't
10 we've heard that -- strike that. If large facilities
11 were the answer, shouldn't we have heard that from
12 someone in the industry? If large facilities were
13 the answer, would Haymarket be the only one with
14 facilities this size?

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15 We are told Haymarket has experience
16 in this, but then Dr. Lustig, when we try to compare
17 this proposed facility to Haymarket West Loop, we're
18 told it's different. We're told it's urban versus
19 suburban. It's different. There's
20 multi-generational drug use. It's different. Does
21 that mean that they don't have any experience
22 treating this patient or the proposed patient
23 population? We're told they have a great
24 mother/child program that's conducive to family and

1 rehabilitation, but, when challenged by the school
2 district, instead of addressing the concern and
3 trying to find a solution, it runs from the
4 detrimental impact on that program and scuttles the
5 program, or at least tells us they're scuttling the
6 program.

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07:51

7 Much testimony has been shared on
8 the need for substance use disorder treatment
9 opportunities. According to the numbers shared by
10 Haymarket, 379 people from DuPage County were treated
11 at Haymarket Center West Loop. 19 percent of the
12 amount served for DuPage and the collar counties.
13 However, Haymarket walked away from a facility, that
14 16-bed facility I mentioned in Wheaton, that wouldn't
15 have needed a special-use permit if they were just
16 going to do outpatient treatment. A facility that
17 was large enough to have treated all of those 379 of
18 those DuPage County patients on an outpatient basis
19 according to Dr. Lustig at page 63.

20 Dr. Lustig told us in November of
21 2019 that Haymarket was putting its best foot
22 forward, it's best evidence. When you peel away two
23 years of public hearings, Haymarket's best foot has
24 failed to support its application for a mixed or

1 special-use permit. It has failed to demonstrate
2 that the proposed use will not negatively impact
3 property values; failed to show that it wouldn't
4 negatively impact the surrounding area; failed to
5 demonstrate that it's for the public benefit of
6 Itasca and its people; or that it's in the interest
7 of the public convenience of Itasca; or that it would
8 contribute and not detract from the general welfare
9 of Itasca.

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10 In many ways, Haymarket has made
11 your task fairly simple by failing to carry its
12 burden of proof or burdens of proof, recommending no
13 is the only real option for you. Thank you.

14 CHAIRMAN DALY: Thank you, Mr. Ellenbecker,
15 for your closing statements. Ms. O'Keefe will be
16 presenting --

17 MS. O'KEEFE: Can we take a five-minute break?

18 CHAIRMAN DALY: That would be fine. Why don't
19 we reconvene at 8:00 o'clock sharp. Thank you.

20 (Recess taken.)

21 CHAIRMAN DALY: All right, everyone. We're
22 now ready to resume. At this time, Ms. O'Keefe, the
23 floor is yours.

24 MS. O'KEEFE: Thank you, Mr. Chairman. So

1 it's been a long road getting to this point. Allow
2 me to begin by thanking you, the Plan Commission, the
3 Village attorneys and staff for the incredible time
4 and consideration that you have dedicated to this
5 case, particularly given the twists and the turns 08:03
6 that have been created by COVID. Haymarket is deeply
7 appreciative of all of your efforts and the
8 sacrifices that you have made to be present through
9 these many hearings, so thank you, thank you, thank
10 you. 08:03

11 You don't have an easy job. The
12 vote you take is very important. It's important to
13 the citizens of Itasca who want assurance that
14 Haymarket DuPage will not adversely impact their
15 community, the government services they receive, and 08:03
16 their property values. It's also very important to
17 those who are suffering from substance use disorder
18 and mental health issues.

19 The one common theme that we have
20 heard is that the need for treatment exists, 08:03
21 especially for substance use disorders. I can almost
22 guarantee you that there is not a person in this room
23 who does not know someone who is suffering from
24 substance use disorder. The illness is pervasive and

1 it's corrosive to families, businesses, and
2 communities. It is within your power to provide help
3 to those who suffer and to their family and friends
4 and employers.

5 Finally, it's important to remember 08:04
6 that property owners have rights, too. Rights that
7 need to be respected. Haymarket, as the owner of 860
8 West Irving Park Road, has property rights that
9 include the right to use the property as authorized
10 by the Itasca zoning code. So let's get one thing 08:04
11 out of the way. It's been very difficult to listen
12 over the past few hearings to Haymarket being accused
13 of lying, not being trustworthy, and not being
14 transparent. These unfounded statements appear
15 predicated on a lack of knowledge of the facts and 08:05
16 the testimony presented during the hearings and the
17 good-faith efforts it has made to try to be a
18 partner.

19 In response to these statements, I
20 remind you of Haymarket's history and mission. 08:05
21 Haymarket was opened 46 years ago by its founder,
22 Father Ignatius McDermott, to serve those suffering
23 from substance use disorder who were living in what
24 was then Skidrow on the west side of Chicago.

1 Haymarket's mission has never faltered to serve those
2 in need. Their actions in support of this mission
3 demonstrate Haymarket's integrity and commitment to
4 that mission every day.

5 Tonight we're going to focus on the
6 facts that have been presented over the past 30-plus
7 hearings. I'm going to sum up the evidence you have
8 heard, which demonstrates how Haymarket's application
9 for zoning relief complies with the standards
10 required for approval of a special use for a planned
11 development, for a healthcare facility, and then for
12 site plan review. Then it will be your turn; your
13 turn to review the facts presented and determine
14 whether Haymarket has met its burden of proof.

15 Tonight I'm going to tackle the
16 three top issues first. The planned development
17 process, the impact on EMS services, and the
18 potential economic impact of the proposed use. After
19 I address these issues, I will then formally address
20 the legal standard for a planned development and site
21 plan review and identify the testimony and evidence
22 introduced into the record which demonstrates
23 compliance with those standards.

24 So let's start with the process.

1 Let's go back to May of 2019 when this all began.
2 The Village informed Haymarket by correspondence
3 dated May 9th, 2019, that Haymarket had to obtain
4 approval of a planned development because the
5 proposed use is a mixed use of residential and
6 medical. The residential determination was made by
7 the Village staff based on Haymarket's plan to
8 incorporate recovery home beds into its healthcare
9 facility. Haymarket strongly disagreed with this
10 interpretation, and it appealed the initial
11 determination to this commission and then to the
12 Village board and ultimately to the courts.

13 While the court dismissed the matter
14 without prejudice to re-filing, finding it was
15 premature until the Village had made a determination,
16 the court also found it interesting to note as to
17 whether the proposed facility is a mixed-use facility
18 or a medical facility, a question it did not resolve
19 at that time. Two of Haymarket's experts, George
20 Kisiel of Okrent Kisiel Associates and Ken Polach of
21 Polach Appraisal Group, who each have more than 30
22 years of experience in their respective fields of
23 expertise, they both opined that Haymarket's proposed
24 use of the facility is not a mixed-use development

1 and that it is, in fact, a healthcare facility as
2 defined by the Itasca zoning code. Mr. Kisiel
3 provided extensive testimony on why this will be a
4 healthcare facility and that there's not a
5 residential component to the proposed use.

08:08

6 The Itasca zoning code defines a
7 dwelling unit as follows: A dwelling unit consists
8 of one or more rooms which are arranged, designed, or
9 used as living quarters for one family only.

10 Individual bathrooms and complete kitchen facilities
11 permanently installed shall be included in each
12 dwelling unit. Because the Haymarket building will
13 not contain residential units with individual
14 kitchens, as required by code to be a dwelling unit,
15 the Village incorrectly labeled the building as a
16 mixed use. In addition, the use just didn't fit
17 typical planned developments, which usually involve
18 projects involving new construction on larger sites
19 with more complex and multiple uses, not just the
20 adaptive reuse of a single building for one use.

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21 Regardless of these facts, the
22 Village determined that Haymarket had to proceed with
23 the lengthy process of obtaining approval of a
24 planned development and that's what we have done.

1 The Village staff eventually determined that although
2 a planned development is required, the majority of
3 the planned development standards did not apply to
4 this project because they were not applicable to the
5 adaptive reuse of an existing building with no new
6 construction or major site improvements contemplated.

08:10

7 Because of the Village's
8 classification of Haymarket's application as a
9 planned development rather than as a special use or a
10 healthcare facility, Haymarket filed a request for a
11 reasonable accommodation with the Village. Under the
12 fair -- the Federal Fair Housing Act and the Federal
13 Americans with Disabilities Act, a municipality must
14 make reasonable accommodations to its rules,
15 policies, practices, or services when such
16 accommodations may be necessary to afford people with
17 disabilities equal opportunity and access to
18 treatment for substance use disorder and behavioral
19 health issues.

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20 Under these federal laws, people
21 with conditions such as those are considered people
22 with disabilities. They are a protected class of
23 people entitled to accommodations that are reasonable
24 and necessary. When it comes to zoning matters,

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1 accommodations to zoning policies may be necessary
2 for those with disabilities to have an equal
3 opportunity; an equal opportunity to access a
4 treatment facility such as that as proposed by
5 Haymarket.

08:11

6 Because of these federal laws, on
7 June 30th, 2020, on behalf of Haymarket, Access
8 Living, a disabilities rights organization, filed a
9 written request for reasonable accommodation with the
10 Village. Specifically, Access Living requested that
11 the Village interpret its zoning ordinance to
12 classify the proposed Haymarket facility as a
13 healthcare facility and a special use under its
14 zoning ordinance rather than as a planned
15 development. In its written request, Access Living
16 pointed out that the zoning ordinance explicitly
17 classifies a hospital as well as certain other
18 medical centers as healthcare facilities.

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19 Access Living further stated that
20 because Haymarket will provide medical care to its
21 patients, much like a hospital provides medical care
22 to its patients, it was reasonable to classify
23 Haymarket's treatment center as a healthcare
24 facility, as a special use, and the Village was

08:12

1 obliged to do so as a reasonable accommodation. The
2 Village denied this request. In doing so, the
3 Village treated Haymarket's application differently
4 than it would have treated an application for a
5 hospital. This constitutes discrimination against
6 people suffering from substance use disorder as
7 compared to people with other medical or psychiatric
8 illnesses who receive treatment in a hospital, and
9 this action violated the Federal Fair Housing Act and
10 the Americans with Disabilities Act.

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11 A joint statement issued in 2016 by
12 the U.S. Department of Justice and U.S. Department of
13 Housing and Urban Development on the Fair Housing
14 Act's application to local land use laws and
15 practices speaks to this precise issue. In that
16 joint statement, the two federal departments state it
17 is unlawful to refuse to provide reasonable
18 accommodations to zoning policies when accommodations
19 may be necessary for those with disabilities to have
20 equal opportunity to access treatment.

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08:13

21 Moreover, courts have held that
22 municipalities have violated the Fair Housing Act
23 when recovery homes are denied permits as a result of
24 community protest. And, notably, courts have found

1 that when a municipality requires a more onerous
2 zoning process for a facility or home that will serve
3 or treat people with disabilities and does so due to
4 their disabilities, such constitutes discrimination.

5 In the previously referenced joint 08:14
6 statement, DOJ and HUD stated, a land use or zoning
7 practice may be intentionally discriminatory even if
8 there is no personal bias or animus on the part of
9 individual government officials. Therefore, even if
10 the Village's refusal to classify Haymarket as a 08:14
11 healthcare facility was not rooted in animus against
12 people in recovery, its refusal can still constitute
13 intentional discrimination under federal law. The
14 Village has an opportunity to correct this violation
15 of federal law by approving the proposed healthcare 08:14
16 facility, even as a planned development, to provide
17 treatment and recovery services to a protected class
18 of individuals.

19 Now, I would now like to move on to
20 impact on EMS services. Mr. DiNolfo says that taking 08:15
21 an oath doesn't require you to check your common
22 sense at the door and we agree. But your oath
23 doesn't require to you blindly -- to blindfold
24 yourself to facts presented. What we ask you to do

1 this evening is to use your common sense and
2 thoughtfully evaluate the facts that I'm going to
3 present on this issue. A fact that we should all
4 agree on is that everyone in this room wants to
5 ensure that EMS services are timely provided to 08:15
6 Itasca residents and businesses, Haymarket's patients
7 and employees, and MABAS member communities.

8 When Haymarket first approached the
9 Village about its zoning proposal, the Fire
10 Protection District expressed concern that it only 08:16
11 had one ambulance and that it could not handle the
12 potential demand that was created by Haymarket.

13 Itasca residents expressed concerns that there
14 wouldn't be an ambulance available if an emergency
15 arose and that its existing emergency services would 08:16
16 be overwhelmed because Itasca is too small to have
17 adequate infrastructure to serve Haymarket's
18 healthcare facility.

19 Haymarket heard those comments and
20 initially offered to purchase a second ambulance for 08:16
21 the Fire Protection District. In addition, Haymarket
22 sought state grant funding to aid the Village.

23 Itasca's Mayor Pruyn rejected these grant funds and
24 the Fire Protection District rejected the offer of a

1 second ambulance because the offer did not include
2 the funding to staff the ambulance.

3 Still wanting to be a responsive
4 community partner, Haymarket entered into a contract
5 with Elite Ambulance. It's the second largest 08:17:
6 ambulance provider in Illinois, and they asked that
7 it handle its basic life support calls. Testimony
8 was also provided that Elite has the capability to
9 also handle advanced life support calls and critical
10 care transport calls. Now, Haymarket volunteered to 08:17:
11 agree to a requirement that it contract with the
12 private ambulance service as a condition of approval
13 of its zoning. It also committed to hire an
14 additional secondary ambulance company, if needed, to
15 handle call volume. 08:17:

16 Haymarket then went a step further,
17 and they hired an expert in the fire safety issues to
18 conduct due diligence to confirm that Elite has the
19 capabilities, experience, and expertise to
20 successfully serve this need. James Dominik, a 08:18:
21 former fire chief now with Polaris Safety Solutions,
22 has 30 years experience working with the fire
23 industry and with private ambulance companies both in
24 Illinois and around the country. Mr. Dominik

1 testified that he spent considerable time working
2 with Haymarket and Elite, based on his experience, 30
3 years of experience in the field, to develop a
4 program that they believe would work for both the
5 district and for Haymarket patients and employees. 08:18

6 Haymarket has gone to great lengths
7 to address the concerns expressed by the district and
8 Itasca residents. Since the spring of 2019, we have
9 asked on numerous occasions to meet with the Fire
10 Protection District to discuss these concerns and the 08:18
11 protocols that were developed between Elite and
12 Haymarket so that we could review them with the
13 district and revise them, if needed. The Fire
14 Protection District has consistently refused to meet
15 with Haymarket. 08:19

16 There has been extensive discussion
17 about the number of EMS calls that Haymarket may
18 generate. In addition to Haymarket hiring Jim
19 Dominik through Polaris to look at this issue, the
20 Fire Protection District hired Robert Moeller with 08:19
21 Fitch & Associates to review Mr. Dominik findings.

22 We are going to move on now to call
23 volume and mutual aid. Mr. Dominik performed a
24 thorough study on the impact Haymarket could have on

1 the district's provision of EMS services.
2 Mr. Dominik determined that the Fire Protection
3 District currently responds to 2.2 EMS calls a day.
4 That fact is unrebutted. Mr. Moeller relied in his
5 report on that fact. In addition, per the report 08:19:
6 issued by the office of the State Fire Marshal and
7 submitted into evidence, from 2014 to 2018, the Fire
8 Protection District provided 48 to 60 percent more
9 mutual aid to other communities than it receives.
10 And I find it surprising to hear the district say 08:20:
11 that information is incorrect, that it's wrong,
12 because that information, by state law, is required
13 to be provided by the district to the State Fire
14 Marshal. So if the information is wrong, then they
15 knowingly provided incorrect information to the 08:20:
16 office of the State Fire Marshal.

17 The Polaris report established that
18 the Fire Protection District has one of the lowest
19 call volumes in MABAS 12. It's based on data
20 gathered from 2014 to 2018. This fact is also 08:20:
21 unrebutted. This low call volume of 2.2 EMS calls
22 per day includes the significant amount of time the
23 district sends its manpower and equipment to other
24 communities on mutual aid calls. Every time an

1 ambulance or a truck responds to a call in another
2 community, there is one less vehicle available to
3 respond to people in Itasca. This number, 48 to 60
4 percent, is far higher than the 15 percent
5 Mr. Moeller recommended in his testimony and higher
6 than Chief Burke testified to.

08:21

08:21

08:22

08:22

7 On April 14th, 2021, Chief Burke
8 stated that, in his view, mutual aid given and
9 received should be roughly equal. The Fire
10 Protection District provides as much mutual aid
11 because it has the capacity to do so. Mr. Dominik
12 testified that in his expert opinion, Haymarket
13 DuPage will not unduly affect the Fire Protection
14 District based on the low volume of calls the
15 district responds to on a daily basis today.

16 His opinion was based on the study
17 of 11 comparable treatment and recovery homes.
18 Mr. Dominik testified that although the 11 comparable
19 treatment facilities are smaller in size than that
20 proposed here in Itasca, they represent a broad range
21 of treatment centers which provide the same levels of
22 licensed services to the same population and thus
23 provide the best sites to be studied indepth. In his
24 opinion, opening the Haymarket facility will not

1 impact the Fire Protection District's reliability and
2 timely response to Itasca residents and businesses.
3 To provide additional protection is why Elite and
4 another secondary ambulance company, if necessary,
5 would be utilized.

08:23

6 I would now like to address the
7 issue of concurrent calls. Mr. Dominik also
8 addressed this concern. He testified that if two
9 calls come in at the same time, the district has both
10 an ambulance and an engine that can respond to EMS
11 calls. Both are ALS equipped and can provide the
12 same level of care. Moreover, the Itasca Fire
13 Protection District shares its chief with Wood Dale
14 and the district also has intergovernmental
15 agreements with Wood Dale and Roselle that assure
16 priority to each other's residents.

08:23

08:23

17 MABAS offers a statewide mutual aid
18 response system for fire, EMS, and specialized
19 incident operational teams. MABAS provides
20 assistance when an emergent situation or concurrent
21 call arises. The MABAS system allows suburban
22 departments to work together in a coordinated fashion
23 dedicating resources to a need that arises, just like
24 fire stations in larger cities do when trucks are

08:24

1 dispatched to areas, as needed, where assistance is
2 required. Another important fact that cannot be
3 overlooked is that Haymarket has contracted with
4 Elite to provide BLS services. This, as well, should
5 lessen the probability of concurrent calls.

08:24

6 There seems to be confusion about
7 the services that Elite will provide. Elite will be
8 called when a need for basic life support services is
9 needed. By definition, a BLS incident does not
10 require an immediate response. Haymarket has
11 testified that, based on its extensive experience,
12 most of its calls in Chicago are BLS calls. In
13 contrast, advanced life support services, ALS calls,
14 are emergent in nature and therefore require a more
15 immediate response. In those instance, if necessary,
16 Haymarket will call 911 when those incidents arise,
17 and the Fire Protection District will be called upon
18 to respond to the calls. It is the potential ALS
19 call volume that was evaluated by Polaris for
20 potential impact on the district. And, finally,
21 let's not forget that Haymarket is a medical facility
22 and will have trained personnel on site who can
23 provide emergent healthcare until an ambulance can
24 arrive. Based on these factors, Mr. Dominik stated

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08:25

1 that, in his expert opinion, the concurrent calls can
2 be safely handled.

3 So now we'll move on to capacity.

4 Mr. Dominik and Mr. Moeller agree that the fire
5 district has the capacity today to handle the 379
6 calls per year that Mr. Moeller estimated could be
7 generated by Haymarket DuPage. On page 12 of his
8 report, Mr. Moeller, the expert for the fire
9 district, wrote it is Fitch's assessment that

10 currently the Itasca Fire Protection District has
11 sufficient capacity to absorb the increased demands
12 from the proposed Haymarket project. Mr. Moeller
13 reaffirmed this statement during his testimony on
14 April 14th. Mr. Moeller further testified that no
15 new staff or equipment would be required to meet this
16 new call volume. Both experts agreed the Fire
17 Protection District can handle the calls today.

18 When Haymarket asked at what point
19 would Haymarket generate a need for more staff or
20 equipment? What would be the tipping point? Neither
21 Mr. Moeller nor Chief Burke could state if or even
22 when this would happen. From their testimony, it
23 appears that the Fire Protection District and Itasca
24 residents believe that Haymarket is the tipping point

1 for the fire protection's ability to serve the
2 district's businesses and residents, even when
3 Haymarket is served by a private ambulance company.
4 Haymarket questions the factual basis for this
5 assertion. Why is Haymarket the tipping point? And 08:27
6 not, for example, the bridge development? The bridge
7 development that the Village has approved.

8 As demonstrated by the evidence
9 presented, the bridge development is going to
10 eventually include these Class A spec industrial 08:27
11 buildings that are three-quarters of a million square
12 feet in size. They will be used for warehousing,
13 distribution, light manufacturing, and logistics, and
14 the project also includes a 47,500 square foot
15 commercial area including a gas station, a five-story 08:28
16 Holiday Inn, restaurants, and commercial space.

17 In contrast, as you know, our
18 proposal only deals with one five-story former
19 Holiday Inn and is much smaller in size. Yet, in the
20 view of the public documents relative to the bridge 08:28
21 development, it is clear the Fire Protection District
22 did not raise any concerns; any concerns relative to
23 the impact the development would have on the
24 district, and it did not require the developer to

1 perform a call volume analysis to determine if this
2 project would be the tipping point which would
3 generate the need for additional equipment,
4 additional personnel. In the case of the bridge
5 development, the Fire Protection District staff 08:28
6 issued a one-page staff report and the project was
7 approved with no further questions.

8 With regards to Haymarket, Chief
9 Burke testified it's not just a question of capacity,
10 it's a question of impact. Mr. DiNolfo said that 08:29
11 earlier tonight. It's not a question of capacity,
12 it's a question of impact. So let's look at another
13 marker that is used to measure capacity and impact,
14 which is unit-hour utilization. This is a measure
15 used by fire departments around the country to 08:29
16 determine when additional staff and equipment are
17 needed to ensure reliable and timely responses. This
18 goes directly to the question of what is the tipping
19 point when additional personnel and equipment would
20 be needed. 08:29

21 On April 28th, Mr. Moeller testified
22 that unit-hour utilization is the amount of time an
23 ambulance is tied up on a call. Mr. Moeller further
24 testified that the national standard used by Fitch,

1 his company, and the International Association of
2 Firefighters is that the fire department doesn't want
3 to exceed a .3, which means having an ambulance tied
4 up more than 30 percent of the time.

5 On August 4th, Mr. Dominik testified 08:30
6 that the Fire Protection District has a current
7 unit-hour utilization of .1. Mr. Dominik stated that
8 the Fire Protection District would have to triple --
9 that's triple -- the amount of calls it handles
10 before it would get to the point where it would 08:30
11 impact reliability and availability of EMS services
12 to Itasca residents. Mr. Dominik went on to say that
13 based on the various projections provided by experts
14 for Haymarket and the fire district, the fire
15 district has the capacity even if you apply the 08:31
16 highest potential call volume, which in this case
17 Mr. Moeller testified is the highest potential call
18 volume of 379 calls or that 23-percent increase in
19 calls. But if you look at the higher call volume of
20 379 calls, it would only change the unit-hour 08:31
21 utilization from a .1 to a .15, and that is still
22 half of .3 of the national standard. So even when we
23 go with Mr. Moeller's numbers, under the unit-hour
24 utilization, which is the standard used around the

1 country, it's still only .15, half of the national
2 standard. These facts are unrebutted.

3 When we look at the standard metrics
4 used by fire departments across the country to ensure
5 reliable and timely responses and apply it to the 08:32
6 Fire Protection District's current capacities and
7 potential Haymarket demand, the numbers speak for
8 themselves. There will be no adverse impact on
9 Itasca and the residents.

10 Let's move on to the Polaris study. 08:32
11 Extensive testimony was provided by Mr. Dominik as to
12 why Haymarket Chicago is not a reliable comparable in
13 determining potential call volume at Haymarket
14 DuPage. This is primarily due to different patient
15 types and different programs offered as well as to 08:32
16 the unreliability of the CAD data provided, which was
17 relied upon by Mr. Moeller. Instead of using
18 Haymarket Chicago as a comparable, Mr. Dominik
19 performed a thorough study based on 11 comparable
20 sites which included extensive due diligence with no 08:33
21 limitations placed on his ability to study all
22 relevant issues. The 11 sites provide the same
23 licensed services; Levels 1, 2, 3.2, 3.7, and
24 recovery homes. These are the same licensed services

1 to the same patient type as proposed at Haymarket
2 DuPage.

3 Mr. Moeller, on the other hand, was
4 given a very narrow scope of work; simply to review
5 the methodology and findings of Mr. Dominik's report 08:33
6 and to review call volumes generated by two senior
7 housing facilities and a behavioral health hospital.
8 These facilities don't even provide the same licensed
9 services as would be offered by Haymarket and do not
10 provide a reliable basis for comparison. 08:33

11 So I think this slide kind of
12 summarizes the scope of due diligence that Polaris
13 reviewed. He studied call volumes, concurrent calls,
14 mutual aid usage, unit-hour utilization, response
15 times, historic growth patterns for the fire 08:34
16 district, call volume data for 11 comparable sites,
17 historic CAD data from Haymarket Chicago -- which
18 also was the only item studied independently by
19 Mr. Moeller -- EMS call volumes generated by
20 Haymarket Chicago in 2018, and Elite Ambulance's 08:34
21 operations and capabilities. Mr. Moeller's study was
22 nowhere near as thorough and Mr. Dominik, and when
23 asked, Mr. Moeller stated that most of these items
24 were not studied because they were outside the scope

1 of work given to him by the Fire Protection District.

2 A number of statements have been
3 made about the number of calls made by Haymarket
4 Chicago to the Chicago Fire Department; Haymarket
5 calls to the Chicago Fire Department for all calls, 08:35
6 ALS and BLS alike. The Chicago Fire Department has
7 never complained about the number of calls received
8 from Haymarket in Chicago and, in fact, Haymarket has
9 a very collaborative relationship with the Chicago
10 Fire Department. 08:35

11 Finally, there have been questions
12 raised about why Elite chose not to testify. In
13 response, Elite issued a letter, which is in
14 evidence, in which it states, we have made a business
15 decision not to participate in these proceedings so 08:35
16 that the focus of Haymarket's zoning application can
17 remain on Haymarket and the facts it is required to
18 set forth for zoning approval. Our decision has
19 nothing to do with Haymarket nor with our ability to
20 meet the ambulance needs of Haymarket should the 08:36
21 zoning approvals be approved.

22 Elite did cooperate, however, as
23 testified to by Mr. Dominik, by meeting with him and
24 allowing Mr. Dominik to assess their processes, their

1 technology, their expertise, how they would approach
2 the Haymarket facility. And this allowed
3 Mr. Dominik, in his expert opinion, to opine that
4 Elite could successfully handle the Haymarket EMS
5 calls.

6 So to conclude this issue,
7 Mr. Dominik used his 30 years of experience in the
8 fire and EMS fields, both nationally and
9 internationally, to do the intense study needed to
10 confirm that Haymarket will not adversely affect the
11 Fire Protection District and there will be no need to
12 add additional personnel or equipment. In fact,
13 Polaris opined that the district could handle all ALS
14 and BLS calls estimated by Fitch to be generated by
15 Haymarket even without factoring in the use of Elite.
16 The facts speak for themselves, and the facts
17 establish that Haymarket will not adversely affect
18 the Fire Protection District or its ability to
19 continue to provide high quality services of EMS
20 services that it does today.

21 So, Mr. Chairman, I was wondering if
22 we could take a five-minute break if that would be
23 okay?

24 CHAIRMAN DALY: That would be fine. Why don't

1 we reconvene at 8:45. That gives us about
2 six-and-a-half, seven minutes.

3 MS. O'KEEFE: Thank you, sir.

4 (Recess taken.)

5 CHAIRMAN DALY: Ms. O'Keefe, please continue. 08:44

6 MS. O'KEEFE: Okay. So we will now move on to
7 the economic impact on the taxing bodies. In 2019,
8 in order to move forward with its plan to open a
9 healthcare facility in Itasca, Haymarket proceeded
10 with the process of obtaining approval of a planned 08:45
11 development. The code provides that as part of the
12 planned development process, the Plan Commission may
13 require the tender of an economic impact statement.
14 Now, the issue of economic impact has generated a lot
15 of discussion, as we have heard testimony from the 08:45
16 Itasca Fire Protection District, the elementary
17 School District No. 10, and the Village's director of
18 police as well as from Haymarket's own experts
19 concerning the economic impact the facility may have
20 on the taxing bodies. 08:45

21 Let's begin by focusing on the
22 simple language of the Village code regarding
23 economic impact. The Village code defines it as a
24 tax impact study detailing the impact which the

1 planned development will have upon all taxing bodies.
2 So the focus is required to be on the economic impact
3 that Haymarket will have on the taxing bodies. Here,
4 the focus has been on the Village of Itasca, the Fire
5 Protection District, and the school district. Note
6 that the code does not identify economic impact as
7 one of the standards the applicant must meet for
8 approval of a planned development or for a special
9 use. This is information that can be used to inform
10 the Plan Commission, no more, no less.

08:46

08:46

11 So there's two components to this
12 case to the economic impact issue. First, what would
13 be the impact if Haymarket successfully obtains a
14 property tax exemption as a result of its
15 not-for-profit status. Second, what will be the
16 impact on the taxing bodies themselves by the demand
17 created by Haymarket.

08:47

18 So let's start with the property tax
19 issue. Haymarket DuPage has testified that it
20 intends to seek a property tax exemption for the
21 property. Certain taxing bodies have indicated that
22 they will challenge Haymarket's application for tax
23 exempt status. From this, we should conclude that
24 the tax exemption is not a done deal. If Haymarket

08:47

1 is not successful in its application for tax exempt
2 status, Haymarket will continue to pay the property
3 taxes and this becomes a nonissue. If Haymarket is
4 successful in its application, property taxes once
5 paid will not be lost to the taxing bodies, as was 08:47
6 incorrectly asserted by Sarah Ketchum, the Village's
7 expert.

8 The fact is, that's not how the
9 property tax system in Illinois works. In reality,
10 if any one property owner in any one of these taxing 08:48
11 bodies secures an exemption from taxes, the tax
12 obligation of that person or entity is spread over
13 the remaining property owners within the taxing
14 district boundaries. Haymarket's expert
15 Dr. Merriman, who was a UIC professor and an expert 08:48
16 in taxation, testified to this very fact and that
17 evidence is unrebutted.

18 Relative to the illusory issue of
19 lost property taxes is a statement made in the staff
20 report issued back in 2019. Staff states that Itasca 08:48
21 has a limited tax base. In reality, Itasca has a
22 very healthy tax base. Haymarket retained Aaron
23 Gruen, an expert urban economist and attorney, who
24 examined Itasca's underlying tax base and testified

1 that based on the experience of the past five years,
2 the annual increase in EAV and the resulted increase
3 in property taxes that have been paid has more than
4 offset the impact on property taxes should the
5 Haymarket property be deemed tax exempt.

08:49

6 The district-wide tax base for the
7 Village is \$696 million. The total tax base for the
8 Fire Protection District is \$661 million. The
9 Haymarket property has an equalized assessed value of
10 \$2.9 million, or just four-tenths of 1 percent of the
11 total tax base of both the Village and the Fire
12 Protection District. This tax base of the Village
13 and the fire district increased by 19 percent, or
14 almost \$110 million, just between 2016 and 2020.
15 That is the equivalent of 36 Haymarket properties
16 being added to the tax base.

08:49

08:50

17 This is why Mr. Gruen opined that
18 Itasca's tax base is robust and growing and it's due
19 to the strong industrial and commercial sectors that
20 you have here in Itasca. Mr. Gruen testified that
21 the small negative fiscal impacts associated with the
22 proposed Haymarket planned development are negligible
23 compared to the growth of the EAV or tax base. While
24 Ms. Ketchum testified that Haymarket did not study

08:50

1 the impact of the project on the taxing bodies, that
2 statement is not true. In fact, Mr. Gruen examined
3 each taxing body individually in his original report
4 and through his rebuttal testimony given in July of
5 2021, and he determined there will be no adverse
6 impact posed to any taxing body by a proposed
7 property tax exemption.

8 There are two districts for which
9 the property currently generates more than half of
10 1 percent of total property tax revenue from the
11 Haymarket property. The first is Special Service
12 Area No. 3. Haymarket has paid, and has stated for
13 the record that it will continue to pay, the
14 assessment for this special service area. School
15 District 10 is the only other district that
16 represents more than half of 1 percent of total tax
17 revenues.

18 Given that Haymarket's contribution
19 is an estimated \$65,200 on an almost \$13 million
20 budget, Mr. Gruen testified that any impact on the
21 school district would be de minimus, particularly
22 because we don't believe there will be any children
23 residing on the property and there's no credible
24 evidence of any child of a parent undergoing

1 treatment at Haymarket that they will secure
2 educational resources in the district, which we will
3 discuss more fully in a moment.

4 At this time, let's just take a
5 moment to consider that Itasca's zoning code 08:52
6 specifically provides for nonprofit uses in a B
7 district. Built into the code is an understanding
8 that tax exempt uses serve important societal needs
9 in Itasca and they should be permitted. Consider
10 churches, hospitals, government uses. These are uses 08:53
11 that have been deemed eligible for exemption from
12 property taxes because each fulfills an important
13 societal purpose. Should providers of life-saving
14 treatment for those suffering from substance use and
15 mental health disorders be treated any differently? 08:53
16 As to this issue, you should be aware that Illinois
17 case law clearly provides that zoning for a tax
18 exempt use cannot be denied simply because a
19 municipality wants a commercial taxable use on the
20 property. 08:53

21 Let's move on to economic impact.
22 So relative to economic impact, Village Consultant
23 Sarah Ketchum insisted on evaluating the impact of
24 the Haymarket project on the taxing bodies based on

1 the economic performance of the former Holiday Inn
2 hotel. Her report ignored the fact that Haymarket
3 bought the property, the Holiday Inn has closed, and
4 the Holiday Inn is not coming back. Ms. Ketchum's
5 approach was flawed and inconsistent with the plain 08:54
6 language of the zoning code, which defines economic
7 impact to be a tax impact study detailing the impact
8 which the planned development will have upon all
9 taxing bodies.

10 The code doesn't look backward. The 08:54
11 code looks forward. The code doesn't contemplate an
12 evaluation of past versus proposed uses. As
13 Mr. Gruen stated, looking back and extrapolating from
14 a specific land use in the past that was not market
15 responsive nor financially viable and using that as a 08:55
16 basis to review a completely new and different land
17 use is not a valid, reliable approach to evaluate the
18 impacts of a planned development.

19 In this case, looking back at an
20 unviable for-profit land use compared to a nonprofit 08:55
21 use is not what the impact statement requires by its
22 clear language. It requires the plan commission to
23 consider the impact of the proposed project on the
24 taxing bodies going forward. Mr. Gruen examined the

1 economic impact of the proposed Haymarket DuPage on
2 Itasca and DuPage County. His report determined that
3 the ongoing operation of DuPage -- Haymarket DuPage,
4 will generate direct impacts of 163 new high-paying
5 jobs with benefits with an annual payroll of 9.6
6 million. Indirect impacts will support an estimated
7 191 total jobs, both direct and indirect, and 10.6
8 million of total annual earnings, both direct and
9 indirect. Total annual output impact is estimated to
10 be 27.7 million in DuPage County.

11 In addition, Dr. Lustig testified
12 that Itasca and local vendors will be given
13 preferential treatment in contracting and, in fact,
14 Haymarket is using Itasca and local vendors today.
15 Contrast this with an existing vacant building
16 creating no jobs or value for the Village. Evidence
17 was introduced that the prior hotel use was not
18 financially viable. In fact, the hotel had struggled
19 for years, generating less and less money for the
20 Village. Ms. Ketchum did not disclose to the Plan
21 Commission a key fact; that a review of the hotel tax
22 receipts showed that operation of a hotel use wasn't
23 sustainable on the property. Based on information
24 attached to the Ketchum report, hotel tax receipts

1 dropped by more than 50 percent from 2014 through
2 2018. The hotel hit hard times. At least, in part,
3 because of a decision made by government officials
4 years ago to locate I-290 further north, to locate
5 the interchange further north.

08:58

6 When the hotel was built, it had no
7 direct access to the highway and it did not have a
8 lot of competition. This began to adversely effect
9 the Holiday Inn when the interchange was built north,
10 closer to Hamilton Lakes, and competing hotels were
11 built. Expert testimony also identified additional
12 reasons why the property was not a good location for
13 a hotel. Given the low traffic volumes on Irving
14 Park Road and the limited access opportunities
15 adjacent to the site, all of this made the commercial
16 viability of the hotel severely limited.

08:58

08:58

17 Ms. Ketchum also ignored the
18 evidence that on April 26th, 2019, a full year before
19 the property was acquired by Haymarket, a
20 representative of the owner informed Mayor Pruyne that
21 growth in the supply of hotels in the market area
22 exceeded the demand for hotel rooms. The letter
23 stated that this resulted in a diminishing demand for
24 the hotel. The representative continued, in order

08:58

1 for us to secure a long-term extension of the Holiday
2 Inn license agreement, a significant investment would
3 be required to retain the Holiday Inn flag and the
4 ROI is just not there to justify this infusion of
5 capital. In fact, the hotel property was marketed 08:59:
6 for sale for two years and was not able to be sold as
7 a hotel use. This is just another indicator that a
8 hotel is just not the highest and best use of the
9 property.

10 Relative to hotel use, however, 08:59:
11 Itasca's going to benefit from the bridge
12 development, which includes a new Holiday Inn that is
13 placed in a better location closer to the hotel
14 market in the Village and closer to Hamilton Lakes.
15 This Holiday Inn should provide an additional source 09:00:
16 of revenue to offset those that were generated by the
17 prior Holiday Inn on Irving Park Road.

18 So let's move on to the potential
19 economic impact on the taxing bodies themselves by
20 the demand created by Haymarket. As part of its 09:00:
21 assignment, Haymarket asked Mr. Gruen to prepare a
22 fiscal impact study of the proposed use. While
23 Mr. Gruen addressed the project's potential impact on
24 each individual taxing body, his testimony and report

1 focused primarily on the taxing bodies that have
2 argued they would be directly impacted by the project
3 to estimate the net annual fiscal impact. The
4 Village's general fund, the Fire Protection District,
5 and the school district.

6 With regards to the Village's
7 general fund, which funds police and general
8 administrative costs, Mr. Gruen testified that the
9 cost of the project would be less than one-tenth to
10 two-tenths of 1 percent -- that's one-tenth to
11 two-tenths of 1 percent -- of the total Itasca
12 general fund budget in the year 2018 to 2019. He
13 concluded that this would have a de minimus impact on
14 this fund.

15 With regards to the budget for the
16 Fire Protection District, Mr. Gruen looked at two
17 different scenarios both based on the Polaris report.
18 First, he reviewed the original Polaris report, which
19 studied the 11 comparable sites which Mr. Dominik has
20 testified is the most likely projection, and he
21 determined that the potential cost of the healthcare
22 facility to Itasca in that case would be
23 approximately \$3.36 to \$4.72 per Itasca resident.
24 Next Mr. Gruen addressed the Polaris addendum. This

1 analyzed the impact of the 303 ambulance calls that
2 were referenced in Haymarket's internal records for
3 its Chicago facility in 2018. Mr. Gruen estimated
4 that this higher number of EMS calls plus fire
5 service calls would result in an estimated cost to
6 Itasca of approximately \$8.47 per resident.

09:02

7 Mr. Gruen opined that the higher call volume scenario
8 would not result in an undue burden.

9 It is very important to note that
10 Mr. Gruen took a very conservative approach in his
11 analysis, because he calculated district revenues
12 based on collections from 2018, which included
13 service fees recovered of approximately \$329 a call,
14 rather than the 2100 BLS/ALS service fee that was
15 charged at the time. Since preparing the original
16 report in late April of this year, the Fire
17 Protection District adopted an ordinance which raised
18 the ALS/BLS service fee per call to \$5,390, which is
19 more than double.

09:03

09:03

20 On August 4th of this year, Chief
21 Burke testified that the Fire Protection District
22 approved a fee increase for EMS calls to allow the
23 district to qualify for federal ground emergency
24 medical transport monies. Chief Burke testified

09:03

1 that, quote, "in order for you to collect that
2 federal money, you have to assign or through
3 ordinance assign that particular fee structure to all
4 of your ambulance calls. The federal money are
5 medicaid funds that we typically, over the years, 09:04
6 didn't get much money for, so these are medicaid
7 funds. Additional funds that we can collect from the
8 federal government. The second part of your question
9 was do we keep all of that money or collect all of
10 that money? No, the state of Illinois takes 50 09:04
11 percent of what we collect from that federal
12 program," closed quote.

13 As Chief Burke explained in his
14 testimony, of these medicaid funds, the state of
15 Illinois will be entitled to receive one-half of the 09:04
16 monies, but the remaining 2,695 on each call the
17 district responds to will still be considerably
18 higher than the \$329 in fees that was used in
19 Mr. Gruen's estimate. Given that many of Haymarket's
20 patients will be eligible for medicaid dollars, the 09:05
21 higher fee revenue that will be generated by
22 providing emergency services to Haymarket patients
23 will help offset any costs generated by Haymarket.

24 Also when discussing the fiscal

1 impact on the Fire Protection District, the Plan
2 Commission cannot ignore the testimony of Jim Dominik
3 and Robert Moeller, who both testified that the Fire
4 Protection District has sufficient capacity to
5 respond to Haymarket demands without the need for 09:05
6 additional resources. Call volume to the Fire
7 Protection District would have to triple before it
8 would have an impact on capacity.

9 With this in mind, there will be no
10 need for the 750,000 cost that was referred to 09:06
11 tonight and testified to by Chief Burke for the
12 acquisition of a second ambulance. In addition, the
13 Plan Commission cannot ignore the fact that Haymarket
14 has contracted with Elite to meet the majority of EMS
15 calls emanating from the healthcare facility. 09:06

16 With regards to economic impact on
17 the Village's police department, the data produced by
18 the Wood Dale Police Department confirmed the low
19 call volumes handled by the Itasca Police Department.
20 Director O'Connor testified as to his department's 09:06
21 ability to handle his call load with minimal need to
22 reach out for assistance from neighboring police. He
23 testified they have the capacity and they don't need
24 help from their neighbors. In addition to the EMS

1 data that we just discussed, Mr. Dominik determined
2 that Elite's response to the BLS calls generated by
3 Haymarket will lessen the number of calls to the Fire
4 Protection District, which will translate to an equal
5 decrease in calls to the police department which
6 responds to the scene whenever the Fire Protection
7 District responds to an EMS call.

8 Even with higher call volumes --
9 even with the higher call volume assumptions
10 considered in the Polaris addendum and using the
11 higher cost estimates for the Village's general fund,
12 Mr. Gruen estimated that the combined estimated net
13 impact for both the Village and the Fire Protection
14 District would equate to \$10.51 per resident. These
15 facts led Mr. Gruen to conclude there would be no
16 adverse fiscal impact posed to the general fund or
17 the Fire Protection District.

18 Now I would like to move on to the
19 fiscal impact on schools. Ms. Smith argued this
20 evening that there was no credible evidence presented
21 by Haymarket relative to impact on the school
22 district by children of Haymarket patients or
23 Haymarket patients themselves. In response, we must
24 point out that the school district provided no

1 credible evidence that any student will come to an
2 Itasca school as a result of Haymarket. The school
3 district's economic impact concerns are twofold,
4 neither of which are accurate nor supported by
5 evidence.

6 First, the school district
7 highlights the potential loss in property taxes
8 should Haymarket DuPage secure tax exempt status.
9 This issue has been previously discussed. The
10 Haymarket will suffer no loss of property tax
11 revenue. Second, the school district's testimony
12 centered on the possibility that it could be required
13 to provide educational resources at its own cost to a
14 Haymarket patient -- to a child of a Haymarket
15 patient. This testimony was presented even while the
16 district did not and actually cannot state with any
17 certainty that even one child of a Haymarket DuPage
18 patient will seek to secure an education in the
19 district.

20 Haymarket has voluntarily withdrawn
21 from its proposed Itasca facility a mother and child
22 program. A program which initially prompted school
23 district concerns predicated on whether early
24 intervention would be required for any of these

1 children. Haymarket had hoped that this voluntary
2 change in programming would satisfy the district.
3 Haymarket shouldn't be penalized for making this
4 offer to remove the program. It was actually an
5 example of them trying to be a good partner.
6 However, even without the mother and child program,
7 the school district persists in raising the specter
8 of costs which could be associated with educating a
9 child whose parent seeks treatment at Haymarket.

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10 In response, here are some facts
11 that Haymarket would like you to keep in mind.
12 First, the school district has adopted written
13 policies in keeping with Illinois law relative to its
14 obligation to provide educational resources to
15 disabled children and those who are homeless. These
16 policies do not come with a caveat that an education
17 will only be provided to those who can or will pay
18 for the education provided. So why now does the
19 school district object to Haymarket by tying the
20 district's legal obligations to children of Haymarket
21 patients to their potential lack of ability to pay
22 for those services?

23 Second, the school district has
24 stated concerns relative to the economic impact of

1 being obligated to educate a child deemed homeless
2 whose parent is in Haymarket for treatment. We
3 disagree, respectfully, with Ms. Smith's
4 interpretation of the Illinois School Code. Under
5 Illinois law, because children will not be residing 09:11:
6 with parents at Haymarket DuPage, the school district
7 will not be impacted. The Illinois School Code --
8 and the actual citation is
9 105ilcs5/10-230.12(b)(a)(1) states the residence of a
10 person who has legal custody of the pupil is deemed 09:12:
11 to be the residence of the pupil. Legal custody, for
12 purposes of the school code, is defined as follows.
13 It's either custody exercised by a natural or
14 adoptive parent with whom the pupil resides or
15 custody exercised by an adult who demonstrates that, 09:12:
16 in fact, he or she has assumed and exercises legal
17 responsibility for the pupil and provides the pupil
18 with a regular, fixed nighttime abode for purposes
19 other than to have access to the educational programs
20 of the district. A parent or other person who is not 09:13:
21 residing with a child does not have legal custody for
22 the purposes of the school code.

23 From this, it should be fairly clear
24 that Haymarket DuPage and the children of its

1 patients will not create a negative economic impact
2 on the school district. Moreover, in the event
3 School District 10 is required to provide educational
4 resources to a disabled or a homeless child, there is
5 state and federal funding available for assistance.

09:13

6 School District 10 also made the
7 pitch for supposed economic impact on the high school
8 district should a patient at Haymarket be between the
9 ages of 18 and 22 and have an IEP. This assertion is
10 particularly confounding to Haymarket. As Dr. Lustig
11 testified, when patient's come to Haymarket, first
12 and foremost they are seeking help to simply stay
13 alive, not to secure an education in keeping with an
14 IEP.

09:13

15 So now I would like to end this
16 section and discuss the general economic impact.
17 This is a point that has been addressed by several
18 people who have direct experience with substance use
19 disorders, including Lisa Deanna Brennan, who grew up
20 less than a mile from here in Elk Grove Village and
21 eloquently shared with us her experience as a child
22 of parents who could not access treatment and
23 eventually died of overdoses. I was amazed by her
24 grace when she discussed the kindness of her teachers

09:14

09:14

1 and the generosity of government programs which
2 eventually allowed her and her sister to lead happy,
3 successful lives. She discussed the societal cost
4 arising from substance abuse that the general public
5 has to bear. She testified, quote, "it sounds like a 09:15
6 lot of you are worried about the resources that go
7 into Haymarket, but I promise you you are already
8 paying those bills. My mother was arrested for drugs
9 and incarcerated for six months when my sister and I
10 were only seven years old. That's when we received 09:15
11 what was then called welfare. We never had our own
12 home. We had no health insurance so we went to the
13 emergency room for treatment, which raised the
14 medical bills for us all.

15 "My sister and I attended seven 09:15
16 different schools before we graduated. Teachers
17 parented us and the school paid for our lunches,
18 extracurricular activities, and field trips.
19 Emergencies happened. We called ambulances that we
20 could not pay for. We couldn't pay our utility 09:16
21 bills. We went to college. We got Pell grants and
22 scholarships. Those are all community and taxpayer
23 resources that we all pay for when we can't eradicate
24 drug substance use disorder in our communities. We

1 are all paying those bills right now. Effective
2 treatment, such as provided by Haymarket, can help
3 eliminate these societal costs."

4 This powerful testimony says it all.
5 Residents of Itasca, the county, and the state of 09:16
6 Illinois are already paying a high cost associated
7 with those suffering from substance use disorder.
8 Treatment, as we have heard over and over again, is
9 the key to solving the problems, even financial
10 problems, associated with those suffering from 09:16
11 substance use disorder.

12 Mr. Chairman, it's very hard to talk
13 with this mask. Could I take another five-minute
14 break? It gets harder as time goes on.

15 CHAIRMAN DALY: Yeah, that's fine. 09:17

16 MS. O'KEEFE: Okay. Thank you.

17 CHAIRMAN DALY: Why don't we reconvene at
18 9:22.

19 MS. O'KEEFE: Thank you, sir.

20 (Recess taken.) 09:17

21 CHAIRMAN DALY: Please continue.

22 MS. O'KEEFE: Now I would like to move on to
23 the last section of this testimony. And it deals
24 with the special use standards that have to be met.

1 There are three. The first is that the special use
2 has to be deemed necessary for the public location at
3 that convenience. Second, it has to be so
4 designated, located, and proposed to be operated such
5 that the public health, safety, and welfare will be
6 protected. And the third is that it will not cause
7 substantial injury to the value of property in the
8 neighborhood and basically has to conform with the
9 underlying zoning.

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10 So this section is going to focus on
11 each standard, but I'm also going to take the liberty
12 of tying it to the findings that the Plan Commission
13 will be required to make when it makes a
14 recommendation in this case. We'll start with the
15 first standard, which is the proposed use is deemed
16 necessary for the public convenience at this
17 location, and there are two findings that the Plan
18 Commission will have to make.

19 The first is that the approval of
20 the special use is in the public interest and is not
21 solely for the interest of the applicant, and,
22 secondly, the proposed use at that particular
23 location requested is necessary or desirable to
24 provide a service or a facility which is in the

1 interest of public convenience and will contribute to
2 the general welfare of the neighborhood or community.

3 The staff report dated September
4 2019 stated that Haymarket had not adequately
5 demonstrated the need for the proposed facility at 09:23
6 the subject site. Haymarket has introduced
7 significant evidence to demonstrate that the opioid
8 epidemic is everywhere. Not a state, county, or town
9 in the U.S. has escaped the ravages of this epidemic.
10 In 2020, in DuPage County there were a record 112 09:23
11 deaths due to overdoses with 193 saves provided by
12 the county's Narcan program.

13 Through its treatment of suburban
14 patients at its Chicago facility, Haymarket became
15 aware of a lack of treatment options in DuPage and 09:24
16 the collar counties. Haymarket's Itasca facility
17 seeks to bridge the gap and offer the continuum of
18 care that is desperately needed while continuing to
19 conduct its current operation at its Chicago
20 location. Despite public rumor to the contrary, if 09:24
21 this project is approved, Haymarket intends to
22 continue to operate its Chicago facility and patients
23 in the Chicago facility will not be transferred to
24 Itasca, which is approximately a 50-mile roundtrip.

1 Unrebutted evidence establishes a
2 lack of treatment beds in the DuPage and the collar
3 counties. The DuPage Health Coalition reported that
4 in 2018 57,000 residents in DuPage went without the
5 recovery services they needed, and the DuPage County
6 Board of Health issued a resolution supporting the
7 need for increased access to substance use disorder
8 treatment in DuPage County.

09:24

9 The Village staff report attempts to
10 negate the need for the healthcare facility, stating
11 that there were 40 treatment facilities located
12 within 10 miles of Itasca. Haymarket's team reviewed
13 every facility referenced in the staff report and
14 provided evidence that the facilities highlighted by
15 the Village staff are primarily DUI counseling and
16 outpatient clinics. They are not the residential
17 treatment and recovery home beds so desperately
18 needed in the western suburbs.

09:25

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19 As reported by the Kisiel
20 evaluation, based on the national survey on drug use
21 and health and an inventory of state licensed
22 facilities located within 10 miles of the Haymarket
23 property, there are only 179 residential treatment
24 beds and eight recovery home beds available. The

09:25

1 data indicates there's a shortage of 433 treatment
2 beds and over 1800 recovery home beds within 10 miles
3 of Itasca. This is a need that Haymarket will seek
4 to address.

5 Evidence has also been introduced 09:26
6 that there's a serious need for services for
7 residents whose personal or family resources have
8 been exhausted. The public comments have indicated
9 how expensive treatment can be and that cost can be a
10 serious barrier to treatment. Haymarket will meet 09:26
11 the demand of this population, because Haymarket's
12 doors are open to all without any ability to pay.

13 Dr. Daniel Sullivan, chief physician
14 executive of Edwards Elmhurst Health, testified that
15 patients are being released from the emergency room 09:27
16 to the streets because of a lack of available
17 inpatient treatment options. Haymarket has testified
18 there is a need for treatment in the western suburbs
19 because there are patients who refuse to travel to
20 Chicago for treatment. Residents must often leave 09:27
21 the county to secure care, despite the fact they
22 prefer treatment located near their homes and support
23 systems. Dr. Lustig testified that family support is
24 critical to the success of treatment. While

1 Haymarket DuPage's proposed 96 treatment beds and 144
2 recovery home beds won't solve the shortage, it will
3 provide an option for people to go for inpatient
4 treatment closer to home in DuPage and the collar
5 counties. Dr. Sullivan provided strong testimony 09:27
6 regarding the collaboration the hospital currently
7 has with Haymarket and the benefits of future
8 collaboration should this healthcare facility open in
9 Itasca.

10 The Village staff report stated that 09:28
11 if clients and residents are driven or bussed to the
12 site, then the location of the facility in Itasca is
13 not necessary for convenience. This conclusion
14 ignores Illinois case law, which provides that the
15 term "necessary," as used in zoning ordinance 09:28
16 requirements for special uses does not mean
17 absolutely necessary but has been construed to mean
18 expedient or reasonably convenient to the public
19 welfare. To satisfy this factual requirement,
20 Haymarket must demonstrate that the community will 09:28
21 derive at least some benefit from the proposed use
22 for it to be deemed necessary. Clearly, Haymarket
23 has born this burden of proof.

24 Itasca and its residents

1 unfortunately are not immune from the effects of the
2 opioid epidemic, as acknowledged by many Itasca
3 residents during the public comment period. Director
4 O'Connor and Chief Burke both testified that their
5 first responders respond to overdoses within the
6 Village boundaries, while Director O'Connor estimated
7 there's eight to 10 overdoses per year. Every person
8 suffering from an overdose touches an Itasca family,
9 neighbors on the block who see the EMS responders
10 come, sometimes repeatedly, to the same address, and
11 their friends in the greater Itasca community.

12 As the Kisiel report states, there
13 are 25 AA and one NA location located within five
14 miles of Itasca, with another three AA and three NA
15 located just outside the five-mile boundary. Of
16 these sites, three are located in Itasca. These are
17 another direct indication of need for this healthcare
18 facility in this Village. Haymarket's proposed
19 healthcare facility will meet the need in Itasca and
20 that's shown in DuPage and the collar counties,
21 because treatment will be convenient and open to all
22 24 hours a day, seven days a week, 365 days a year,
23 regardless of an individual's ability to pay.

24 Now we'll go to the second standard;

1 is so designated, located, and proposed to be
2 operated such that the public health, safety, and
3 welfare will be protected. And the findings that you
4 all will be asked to consider is that such uses will
5 not, under the circumstances of this particular case,
6 be detrimental to the health, safety, morals, or
7 general welfare of persons residing or working in the
8 vicinity or injurious to property values or
9 improvements in the vicinity.

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09:31

10 So let's start by opening up and
11 looking at the proposed operator, Haymarket DuPage,
12 LLC. It's a limited liability company established by
13 Haymarket Center. It will be licensed by the state
14 of Illinois. The proposed healthcare facility has
15 the support of the Illinois Department of Human
16 Services, Division of Substance Use Prevention and
17 Recovery. Haymarket center is accredited by CARF
18 International, the Commission on the Accreditation of
19 Rehabilitation Facilities.

20 Mr. Ellenbecker apparently thinks
21 having a DuPage County politician testify in support
22 of Haymarket is required. There's no such
23 requirement. Rather than make this a political
24 question, Haymarket presented the resolution of the

1 DuPage County Board of Health supporting this
2 facility. It has presented the evidence of support
3 of healthcare providers that this facility is needed.
4 These individuals are neither politicians, but we
5 think you should listen to them. When you look at
6 this list of support, these are some of the top
7 healthcare providers and treatment providers in the
8 state, and they have spoken about their strong
9 support for Haymarket DuPage in Itasca. This
10 includes Edward Elmhurst Health, Northwestern
11 Medicine at Central DuPage, Loyola Medicine, Rush,
12 Cook County Health, NAMI DuPage, DuPage County
13 Medical Society, the Illinois Association for
14 Behavioral Health, Illinois Primary Healthcare
15 Association, Rosecrance, Erie Family Health Center,
16 Northern Illinois Recovery Center, Thresholds,
17 Serenity House, Metropolitan Family Services, The
18 Gateway Foundation, The Kenneth Young Center, and the
19 National Council For Behavioral Health.

20 I point out all these groups because
21 they represent the best hospitals and the best
22 substance use providers in the region, and they all
23 stand behind Haymarket and they support this
24 facility. This reflects recognition by leaders in

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1 the healthcare community of the need for the high
2 quality services to be provided by an experienced
3 provider such as Haymarket.

4 In addition to the DuPage County
5 Board of Health resolution, the DuPage County Hope
6 Task Force supports this project and Haymarket's role
7 as a new partner to combat the opioid crisis.

8 Haymarket DuPage is supported by the National Safety
9 Council and the League of Women Voters of Roselle,
10 Bloomingdale, and other league chapters in the local
11 area.

12 The National Safety Council's letter
13 of support submitted into the record is particularly
14 interesting to note. As stated on their website, the
15 National Safety Council is America's leading
16 nonprofit safety advocate and has been for over a
17 hundred years. Its focus is on eliminating the
18 leading causes of preventable death. As you know,
19 their national headquarters is just down the street
20 from the Haymarket facility in the Springlake
21 Business Park and it supports Haymarket Itasca.

22 Let's look at some key points made
23 in their letter. First, it's critical that this plan
24 be debated using the latest facts and data rather

1 than hyperbolic or misleading information. They
2 point out the counties with treatment facilities
3 experience drops in drug-induced mortality rates.
4 They discuss increasing access to treatment can help
5 lower certain crime rates and that communities with 09:34
6 treatment centers can benefit financially.

7 The average cost of operating a
8 facility is 1.1 million, and communities can save 1.2
9 to 2.9 million each year because of reductions in
10 crime. They confirm that less than 10 percent of 09:35
11 people with substance use disorders have access to
12 treatment, and they state, to save lives, we must
13 approach substance use disorder the same way we
14 approach all chronic illnesses and that means
15 expanding access to proven treatment options. It's 09:35
16 hard to imagine that the National Safety Council
17 would be supportive of a project that would provide
18 an unsafe condition in its own backyard.

19 Haymarket has the support of its
20 Chicago neighbors, including their alderman, Walter 09:35
21 Burnett, the Chicago Police Department, and the
22 Randolph Fulton Market Association. Their letters of
23 support provide evidence of Haymarket's record of
24 being a strong operator and good neighbor in the West

1 Loop. A late addition to the record was a letter
2 from Alderman Tunney referenced by Mr. Ellenbecker.
3 He's an alderman in the Lakeview neighborhood in
4 Chicago. In 2015, he considered a similar project to
5 Haymarket Itasca when Rosecrance applied for a
6 special-use permit to open a recovery home in an
7 outpatient clinic. It was a smaller project, but it
8 was very different in that it was located directly
9 contiguous to condominiums and 16 feet away, across
10 an alley, from single-family luxury homes.

11 Alderman Tunney wrote that he had
12 serious reservations about the project given the
13 strong community opposition, but since it opened five
14 years ago, Alderman Tunney stated that Rosecrance has
15 been a good neighbor, responsive to residents, and
16 participates in the community. He also stated that
17 he's had no objections from the neighbors, many of
18 whom strongly opposed the project during the approval
19 process. He finishes his letter stating that he's
20 aware of Haymarket Center and its reputation as a
21 highly regarded substance use disorder treatment
22 facility. This provides valuable incites as to what
23 happens once a project is approved, built, and
24 operating. Many of the concerns originally raised

1 don't come to fruition.

2 Roger Romanelli's letter is
3 particularly informative. He's the executive
4 director of the Randolph Fulton Market Association
5 who has worked with Haymarket Chicago for 20 years. 09:37
6 He states that no Haymarket clients that he's aware
7 of has ever been involved in any crime in the
8 community. He points out that there's a Chicago
9 public library 1500 feet from Haymarket and the
10 Chicago Children's Theater and a Montessori school 09:37
11 are nearby and they've had no problems. It states,
12 Haymarket is an overwhelming force for public safety,
13 reducing taxes paid into the criminal justice system
14 and helping family members across Illinois recover
15 and flourish. 09:38

16 So why does Haymarket have such
17 strong support for its proposed facility? First and
18 foremost is because its peers agree that Haymarket
19 can help address the urgent need for treatment beds
20 to address the opioid epidemic. It's because of 09:38
21 Haymarket's 46-year track record of providing a
22 continuum of care of high quality, evidence-based
23 treatment to those suffering from substance use
24 disorder. Haymarket serves 12,000 patients annually,

1 is one of the larger providers of substance use
2 disorder and behavioral health services in Illinois.
3 Its team is made up of trained, licensed medical
4 professionals, and its operations are governed by
5 strict rules and protocols overseen by a licensed
6 medical director.

7 While Mr. Ellenbecker produced a
8 witness to question the treatment provided by
9 Haymarket Center, the witness was woefully
10 unqualified to do more than pass along patient gossip
11 as he testified that he has no knowledge of how
12 Haymarket Center operates and no experience with
13 recovery homes, which will constitute 60 percent of
14 the beds at Haymarket DuPage. In fact, the only
15 credible evidence submitted supported Haymarket's
16 experience in the field and its ability to provide
17 excellent treatment to those suffering from substance
18 use and mental health disorders.

19 Significant evidence was introduced
20 about the proposed operation of the facility.

21 Haymarket's residents go through a significant
22 evaluation process to ensure that the patients can
23 receive the required course of care. Haymarket does
24 not admit violent patients or sex offenders at its

1 Chicago facility, and it will not admit these
2 individuals in Itasca. In addition, clients
3 suffering from severe mental health disorders will
4 not be served in Itasca but will be served at
5 Haymarket Chicago. There will be 24 hour, seven day
6 a week on-site security and regular drug screenings
7 and searches will be conducted.

09:40

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8 Testimony has been provided that
9 patients will be dropped off by families, friends,
10 Ubers, take public transit, or be picked up by
11 Haymarket themselves. Clients will receive
12 individualized plans of treatment with agreed-upon
13 schedules and will not be able to leave the facility
14 without prior approval. Toward the end of a
15 patient's time in a recovery home, the patient will
16 be encouraged to find a job or participate in job
17 training or potentially GED programs offered by
18 Haymarket. Haymarket will have at least five vans to
19 transport clients to those jobs, doctors'
20 appointments, and to address shopping needs.

21 This is a voluntary program. People
22 are there because they want to get treatment. They
23 want to get help. If a patient decides to leave,
24 Haymarket will attempt a clinical intervention to

1 convince them to continue treatment. If a patient
2 continues to decide to leave, Haymarket will offer
3 transportation to family, friends, or alternate
4 treatment. Patients will not be discharged to the
5 street.

09:41

6 Let's shift our focus from Haymarket
7 and its operation to its impact from the perspective
8 of planning and zoning principles and the potential
9 impact of the use on its neighbors in the Itasca
10 community. The Village's staff report stated that
11 proposed mixed-use development with a residential
12 component is inconsistent with the underlying zoning
13 and comprehensive plan. First, it is important to
14 note that Illinois case law provides that the zoning
15 code controls decisions on a project, a comprehensive
16 plan does not.

09:42

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17 Second, experts disagreed with the
18 staff report, testifying that this is not a mixed-use
19 facility because there's no residential component.
20 It's a healthcare facility in which patients stay an
21 estimated 28 days for inpatient treatment and, on
22 average, 90 days for recovery homes. The patients
23 will not be in this facility unless they have a
24 diagnosed substance use disorder. Mr. Kisiel

09:42

1 provided extensive testimony through his detailed
2 report and testimony that the proposed healthcare
3 facility is consistent with the underlying B-2 zoning
4 and, for that matter, the Village of Itasca's
5 comprehensive plan. There's no basis for the staff's
6 position on this issue, and it flies in direct
7 contradiction to Illinois case law, which provides
8 that a special use is a type of property use that is
9 deemed compatible with the other uses in the zoning
10 district and is expressly permitted within a zoning
11 district by the controlling zoning ordinance so long
12 as the use meets the special use standards outlined
13 in the code.

14 Testimony was provided that a number
15 of not-for-profit uses are permitted in the Itasca
16 zoning code in a B-2 district. The staff report
17 ignored these uses. The staff report further states
18 that the subject property is a prime commercial
19 property which is planned for regional corridor
20 commercial developments intended to preserve areas of
21 the Village for intensive commercial land uses.

22 Case law in Illinois is clear, a
23 decision to deny a use because it would be tax exempt
24 is specifically prohibited because it would result in

1 an effective rezoning of the property by excluding
2 nonprofit uses, which are currently allowed in the
3 B-2 district, and would do so without following the
4 appropriate process for rezoning the property. If
5 the Village board wishes to unconditionally remove 09:44
6 all noncommercial uses from the B-2 district, it must
7 amend the zoning ordinance to reflect that intent,
8 and it must do so according to the amendment
9 procedures set forth in the zoning ordinance.

10 The staff report states there's 09:45
11 limited available land in Itasca for commercial
12 development and that the retention of commercially
13 viable properties that do exist in the Village is of
14 critical importance. The Kisiel report rebutted this
15 assertion that there's limited commercial land 09:45
16 available by including a discussion of available land
17 for development, such as the 34 acres available in
18 Hamilton Lakes, and particularly those areas that
19 will be affected when the Elgin O'Hare western bypass
20 opens and provides additional highway access to 09:45
21 Itasca. This will create a number of development
22 uses at the northern end of the Village.

23 The staff report also discusses the
24 impact of the proposed use on the path of development

1 in Itasca. Mr. Kisiel and Mr. Polach offered expert
2 testimony that the proposed healthcare is consistent
3 with the surrounding commercial and light industrial
4 uses, and there will be no adverse impact on the path
5 of development in the immediate area or in Itasca's
6 downtown. 09:46

7 There also was extensive testimony
8 provided that there will be no adverse impact on the
9 residential uses located within the Village,
10 particularly given their distance from the proposed 09:46
11 Haymarket facility and the buffer provided by I-290
12 and the business park. The proposed development will
13 result in the rehabilitation of a vacant building
14 with extensive landscaping being provided to improve
15 the aesthetics of the area and it will meet the 09:46
16 landscaping requirements mandated by the staff
17 report. The building suits Haymarket's needs with
18 limited internal renovations required.

19 Mr. Kisiel testified that given
20 there will be no changes to the existing building and 09:46
21 its operations will be located on the interior of the
22 building, there will be no impact on light, air,
23 noise, emissions, or vibrations. And there will be a
24 fenced-in patio for use by their patients.

1 Mr. Abouna, a traffic expert with KLOA, confirmed
2 there will be sufficient on-site parking,
3 particularly because most of the patients will not be
4 allowed to have cars. Traffic generation will be
5 less than the prior hotel use and will not pose an
6 issue to traffic conditions in the area.

09:47

09:47

09:48

09:48

7 In conclusion, there was extensive
8 unrebutted expert testimony introduced that the
9 operation of Haymarket DuPage will not pose a risk to
10 the public health, safety, or welfare. The property
11 will not cause a substantial injury to the value of
12 other property in the neighborhood in which its
13 located. Mr. Polach, an MAI appraiser with 30 years
14 of experience, provided extensive testimony and an
15 indepth report demonstrating that the project will
16 not have an adverse impact on property values in
17 Itasca and the neighborhood in which its located.

18 Mr. Polach's major findings include
19 there will be a minimal impact on property values due
20 to the physical characteristics of the site,
21 including separation from adjoining properties by 290
22 and Irving Park Road. The surrounding zoning is
23 compatible. He did detailed studies of similar uses,
24 which indicated that the proposed use of the subject

1 property would have no impact on the existing
2 residential uses which are located a substantial
3 distance from the subject property and are separated
4 by the major roadways and business park. A review of
5 similar uses in the area and market data research 09:48
6 indicated no significant impact on property values
7 would result from the proposed use. And as evidenced
8 by the existing uses within the subject area, the
9 property will not impede the normal and orderly
10 development and improvement of surrounding property 09:49
11 for permitted uses.

12 Mr. Polach summarized his findings
13 by stating that our experience in performing impact
14 studies indicates no impact on property values as a
15 result of the proposed use of the subject property. 09:49
16 And there was no expert rebuttal testimony provided
17 challenging these findings.

18 So now we're just going to go to the
19 last finding, which you'll have to read, which
20 basically discusses the project's compliance with 09:49
21 underlying zoning. The proposed use complies with
22 the underlying zoning except for the relief sought
23 for the side yard setback and building height for the
24 existing building and those are grandfathered in

1 under the terms of the ordinance. The building is
2 far less dense than permitted by the B-2. The staff
3 report indicated that the combined 240 treatment and
4 recovery home rooms are less than two-thirds, 63
5 percent less, than the maximum allowed. In addition,
6 the gross floor area of the site results in a floor
7 area ratio of .3, which is less than the maximum .6
8 allowed in the B-2 district. The building requires
9 the building be -- the code requires the building be
10 set back 50 feet from street right-of-way, and it's
11 setback 282 feet from Irving Park Road and 78 feet
12 from I-290. The project complies with all parking
13 and loading as mandated in the staff report despite
14 the fact that 90 percent of the patients will not
15 have a car.

16 So now we're coming to an end. I've
17 got a couple more minutes, though. Now we're going
18 to quickly address the planned development and site
19 plan review standards. In the end, the Village staff
20 determined that Haymarket was only required to comply
21 with a limited number of the planned development
22 standards due to their recognition that most were not
23 applicable to this use. Mr. Kisiel and his
24 evaluation report prepared an extensive analysis of

1 each applicable planned development standard and
2 opined that the Haymarket project complies with each
3 applicable standard for a planned development.

4 In the interest of time, I would
5 refer you to pages 41 to 47 of his evaluation report, 09:51:
6 which addresses these standards indepth. The issues
7 related to the planned development standards were
8 addressed fully and largely are covered by the
9 testimony -- by the closing statement that you've
10 heard this evening. 09:51:

11 With regards to the standards for
12 site plan review, they have not been discussed as
13 fully. Once again, Mr. Kisiel in his evaluation
14 report conducted an extensive analysis of each
15 individual standard and opined that the Haymarket 09:52:
16 project complies with all the required standards for
17 site plan review. I refer to you pages 48 to 52 of
18 the evaluation report, which addresses these
19 standards indepth. Also in the interest of time, I'm
20 going to skip the summary that he did layout with 09:52:
21 regard to site plan review, but it does summarize it
22 in a very brief fashion.

23 Now I would like to just move on to
24 the Fair Housing Act and Americans with Disabilities

1 Act. We believe the zoning standards have been met.
2 The case has been made. But there is an additional
3 aspect of the case you can't forget. Haymarket will
4 serve people with disabilities. A class of people
5 protected by the Fair Housing Act and the Americans
6 with Disabilities Act. Because of this, the Village
7 has a responsibility to accommodate this population.

09:52

09:53

8 If Haymarket's proposal is
9 reasonable and necessary, the Village is obliged to
10 approve it, provided that Haymarket's application
11 does not present an undue burden or fundamental
12 alteration to the Village. This is a higher
13 threshold than is used for typical zoning cases.

09:53

09:53

14 I just spent an hour and a half
15 explaining why Haymarket's application is reasonable,
16 why the treatment center is necessary to save lives,
17 and why Haymarket will not burden the Village or
18 fundamentally alter its operations. But if you still
19 harbor some concern that Haymarket will in some way
20 burden the Village or alter its operations, remember
21 that such is not the standard here under federal law.
22 Because of the civil rights protections at stake,
23 Haymarket would have to present an undue burden or a
24 fundamental alteration for the Village to deny its

1 application. And this is a high threshold, which is
2 not the case here.

3 So in conclusion, a repeated theme
4 has been that Itasca's a small town and it doesn't
5 have the resource to handle this type of facility. 09:54
6 Population-wise Itasca may appear to be a small town,
7 but it has the attributes and amenities of a much
8 larger community. It attracts 18,000 people daily to
9 go to work. It has an equalized assessed value of
10 close to \$700 million. It has major regional 09:54
11 developments like Hamilton Lakes, a large mixed-use
12 development like the bridge development, and five
13 hotels. Itasca may not be as large as Naperville,
14 but it has the infrastructure to support this use as
15 proposed and designed. Itasca is a regional 09:54
16 employment hub with a diverse tax base. Furthermore,
17 it's a wonderful community in which to live and raise
18 a family and that won't change with the addition of
19 Haymarket DuPage.

20 Throughout this process, Haymarket 09:55
21 has had the burden of proof to demonstrate the
22 compliance with the special use planned development
23 and site plan review standards. Haymarket has met
24 this burden and made a case based on proven facts,

1 evidence, and extensive testimony. We understand the
2 concerns that have been raised by Itasca residents,
3 but decisions cannot be based on hypotheticals that
4 may arise in the future, unsupported statements, and
5 speculation. Let's return to the National Safety
6 Council letter which states that its critical this
7 plan be debated using the latest facts and data.

09:55

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09:56

09:56

8 The Village and opposition experts
9 have raised issues of concern, but Haymarket has
10 addressed these concerns and introduced evidence and
11 created a legal record made up of five expert
12 reports, a hundred-plus exhibits, and dozens of hours
13 of testimony to fully address each issue and
14 demonstrate compliance with every legal standard.

15 I want to refer your attention to
16 October 2019 when Cheryl Potts, executive director of
17 the Kennedy Forum, testified about a ground-breaking
18 2016 report issued by the former U.S. Surgeon
19 General. This report stated that one in seven people
20 will develop a substance use disorder in their
21 lifetime. That is a staggering statistic; one in
22 seven. Ms. Potts stated that she works with older
23 and younger adults, mothers, daughters, sons, CEOs,
24 business owners, lawyers, police officers, and so

1 many others who share the common experience of
2 addiction, and she stated these individuals live
3 among us, they are our family, our friends, and our
4 neighbors. Last year alone, 112 people living in
5 DuPage County died of an overdose. They were young 09:56
6 and old, men and women, mothers and fathers, sons and
7 daughters, your friends, your neighbors.

8 You've heard time and time again
9 that treatment is needed but just not here. We
10 believe that Haymarket has met its burden of proof; 09:57
11 that Haymarket's application for zoning relief
12 complies with the standards required for approval of
13 a special-use permit for a planned development and
14 site plan review. This vote represents an incredible
15 opportunity to change thousands of lives and help 09:57
16 countless families. You have an important decision
17 to make as to whether to grant greater access to a
18 comprehensive substance use and mental health
19 treatment center operated by a provider with decades
20 of experience saving lives. 09:57

21 We ask the Plan Commission to please
22 approve our application, and we thank you for your
23 time.

24 CHAIRMAN DALY: Thank you, Ms. O'Keefe, for

1 your closing arguments this evening. At this time, I
2 would like to entertain a motion to continue this
3 public hearing until September 22nd, at which time
4 the Plan Commission will review and deliberate over
5 the findings of fact.

09:58

6 COMMISSIONER HOLMES: So moved.

7 COMMISSIONER CARELLO: Second.

8 CHAIRMAN DALY: We have a motion and a second.

9 Would the secretary please call the vote.

10 MR. KHAN: Commissioner Carello.

09:58

11 COMMISSIONER CARELLO: For.

12 MR. KHAN: Commissioner Drummond.

13 COMMISSIONER DRUMMOND: For.

14 MR. KHAN: Commissioner Holmes.

15 COMMISSIONER HOLMES: For.

09:58

16 MR. KHAN: Commissioner Ray.

17 COMMISSIONER RAY: For.

18 MR. KHAN: Commissioner Russo.

19 COMMISSIONER RUSSO: For.

20 MR. KHAN: Chairman Daly.

09:58

21 CHAIRMAN DALY: For. This meeting is now
22 continued until September 22nd, same location, 7:00
23 p.m. At this time, I would ask for a motion to
24 adjourn.

1 COMMISSIONER HOLMES: So moved.

2 COMMISSIONER CARELLO: Second.

3 CHAIRMAN DALY: There's a motion and a second.

4 Mo, would you please call the vote.

5 MR. KHAN: Commissioner Carello.

09:58

6 COMMISSIONER CARELLO: For.

7 MR. KHAN: Commissioner Drummond.

8 COMMISSIONER DRUMMOND: For.

9 MR. KHAN: Commissioner Holmes.

10 COMMISSIONER HOLMES: For.

09:58

11 MR. KHAN: Commissioner Ray.

12 COMMISSIONER RAY: For.

13 MR. KHAN: Commissioner Russo.

14 COMMISSIONER RUSSO: For.

15 MR. KHAN: Chairman Daly.

09:58

16 CHAIRMAN DALY: For. Motion carries. Good
17 evening, everyone.

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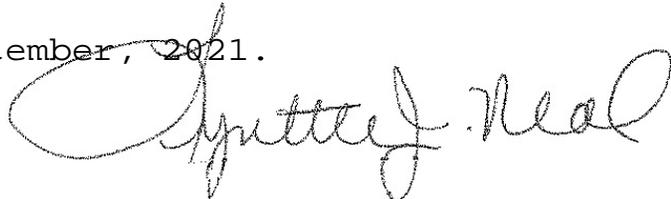
1 STATE OF ILLINOIS)
) SS.
2 COUNTY OF DU PAGE)

3 I, Lynette J. Neal, CSR. No. 84-004363, RPR,
4 do hereby certify that I reported in shorthand the
5 proceedings had at the hearing of the above-entitled
6 cause and that the foregoing Report of Proceedings,
7 Pages 1 through 117, inclusive, is a true, correct,
8 and complete transcript of my shorthand notes taken
9 at the time and place aforesaid.

10 I further certify that I am not counsel for
11 nor in any way related to any of the parties to this
12 suit, nor am I in any way, directly or indirectly
13 interested in the outcome thereof.

14 This certification applies only to those
15 transcripts, original and copies, produced under my
16 direction and control; and I assume no responsibility
17 for the accuracy of any copies which are not so
18 produced.

19 IN WITNESS WHEREOF I have hereunto set my hand
20 this 24th day of September, 2021.

21 
22

23 Certified Shorthand Reporter
24

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