

From: [Justine Hourihane](#)
To: [OneWinnetka](#)
Cc: [David Hourihane](#)
Subject: Development
Date: Wednesday, June 24, 2015 10:45:08 PM

Dear Village Council of Winnetka,

I'm writing to express my concern of the new proposed development at the corner of Lincoln and Elm. My opinions are as follows:

1. The architectural Design. The current Parisian design is out of context with the surrounding buildings and is not harmonious with this village's current historical Tudor style of architecture. This developer is motivated by money in creating this design and he has no appreciation or respect for the current Village's architectural design. There are many excellent examples of Tudor style new developments that flow harmoniously with existing historical architecture on the north shore such as the buildings occupied by Jaguar and Starbucks on Greenbay in Wilmette. Also, Carmel, CA is a beautiful exhibit of a Tudor style village. The Village should encourage the development in this direction. If a different style was proposed, why not classical in nature like the beautiful Village Hall?
2. Rental units. As a resident, I ask what value is this adding to the community? Renters are transient in nature and are not typically invested in the neighborhood like a home owner. We moved from the city to avoid these types of communities, and now we are faced with 71 units outside our back door? Why can't these units be condominiums instead of rentals? Has a study been done on how such growth in the population would effect our community? 71 units with 3 people on average per unit is 213 more people in our center of our town.
3. Plaza. The plaza concept seems like just an extension of this building for the residents and will likely not be embraced by the winnetka public.
4. Parking. The parking spots are not accessible. The extra parking is not useful if it is not accessible. There will be more congestion because there will be 200 more residents with cars in our village center. Our Village Center is already congested with cars! Underground parking for the public doesn't allow for in-and-out parking. The underground parking in Hubbard Woods is underutilized. This should serve as notice to the Village Council that this concept doesn't work. Nobody moves to the suburbs to then have to park in an underground parking garage just to go get a cup of coffee. Our lives were meant to become less complicated, not more.
5. The Scale. The scale of this project clearly does NOT meet any of the current zoning ordinances for height, and the developer has not shown any reasons why his project should be exempt from those requirements. It's that simple!

Regards,

Justine Hourihane
[REDACTED] Prospect Avenue
Winnetka, IL
[REDACTED]

Sent from my iPad

Village of Winnetka June 24, 2015 development commission meeting regarding multi-million dollar development at Lincoln and Elm then East on Elm. Any questions: contact Rhonda Miller (Winnetka resident).

My goal regarding this project is to protect the Village of Winnetka and all of its residents from assuming any risk in this project. The development commission must deal with financial impact of this development on the Village.

If the village land is given to the developer, per their request, what is the village getting in return?

Who is responsible for garage upkeep from day one?

Regarding the repayment to village of the 6.5 million dollar investment for garage development the developer stated that it would be paid in full in approximately 23 years. Approximate means no firm end date for final payment. Village wants specific end date from developer.

Example-A person cannot state approximant year of completed mortgage payment. An individual must have a firm date. Once again the village has no specific end date from developer.

Who is responsible for pay off of bonds if not enough money is coming in from parking?

Is there going to be a financial bond posted by developer to guarantee the total repayment of the 6.5 million dollar debt for parking garage?

If developer sells apartments and commercial property before 23 years is up, there needs to be a covenant on the title of the property assuring payment of the debt pay off to the village. Who will be in charge of maintenance operating cost of garage? The developer has changed configuration of parking spaces from 2 to 1 ½ spaces, this is changing the present density requirement.

Parking development as presently proposed will require security: police, cameras, etc. Who will be financially responsible for the added expenses?

According to a reliable source, the village has only 40 million dollars in reserve. Village money will be required for water tunnel system project and at least 6.5 million dollars for the garage development.

Development wants 8000 sq feet on Lincoln Ave for front of building. It appears that there will not be enough footage for two way traffic. There may also be a potential drainage problem because the parking is underneath the street.

Who will be responsible for maintaining the two small decks (one above lot, one on a different level)?

The development commission needs a long term business development plan for the Village of Winnetka. Should this plan be approved, even in part, the village will essentially be having the tail wag the dog. The traffic from moving vans need to be considered.

For me, Winnetka isn't just a place to live, it has been home for my family for three generations.

Please ask yourself what kind of village you want to leave for your children and grandchildren. I hope it's not a concrete village.

Thank you.

- zoning requirement recently approved from 2 1/2 stories to 4 stories. 2 weeks later development request variance for 7 story building of apartments. Request now is to

THE HADLEY SCHOOL FOR THE BLIND

June 26, 2015

Tina Dalman
Chair, Village Planning Commission
Village of Winnetka
510 Green Bay Road
Winnetka, Illinois 60093

Dear Chair Dalman and Members of the Village Planning Commission,

I want to thank the Commission for listening to and understanding the concerns of the community regarding the One Winnetka project; however, I am disturbed to learn that, unfortunately, Mr. Trandel brought The Hadley School for the Blind into your deliberations at your June 23, 2015 meeting.

I reside at 705 Oak Street in Winnetka and serve as president of Hadley, located at 700 Elm Street. Both my residence and my work are located immediately east of the proposed construction of One Winnetka. Hadley has been your good neighbor for 95 years. When the current headquarters was built in 1955, it was welcomed by this community as a preferred alternative to the then—dreaded 15-unit apartment building proposed on the site of our current headquarters.

The builder of One Winnetka testified in the first hearing that he has plotted for two years, spent \$3 million and his team “knows what Winnetka wants,” but he never sought input on the proposed development with immediate neighbors. I invited Mr. Trandel to visit the school and learn of my personal concerns regarding traffic, congestion, density, flooding and compatibility with the Village design, among other issues. Our discussion included details regarding a future Hadley remodel. Subsequently, I learned that Mr. Trandel, in his latest presentation, described the Hadley property as a “mess” and attempted to imply that Hadley supported his plan and, somehow, needed his proposal to complement any future renovation. While I met with him in good faith, I object to any reference that I, or anyone at Hadley, was supporting or endorsing One Winnetka.



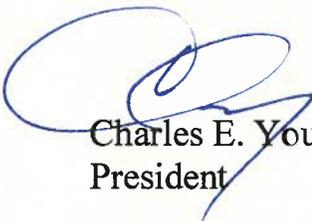
Page 2

In fact, I mentioned to Mr. Trandel that our employees and local residents often travel through a gauntlet of bicycles, skate boards, baby strollers, restaurant tables and chairs strewn across Elm Street's sidewalks. The proposed three restaurants next door could mean even more sidewalk sales and outdoor dining, making matters worse, unless set-back and separation are assured but, so far, that appears to be unaddressed.

I also shared with Mr. Trandel my personal perspective that apartments are for "20 somethings" who live, work and play in Chicago. Luxury condos would more appropriately meet this community's desire "to age in place," while also attract tax-paying and "invested" homeowners who are not going to come and go. In the years it will take to complete One Winnetka, I may retire myself and would welcome purchasing a condo near the iconic Conney's Pharmacy and the Metra train station. But, just as in 1955 I, and my Winnetka neighbors, would have no use for apartments.

Again, I object that Mr. Trandel brought our private discussion into this hearing and want to make sure that the Planning Commission, our neighbors and the Winnetka Community understand that Hadley School has made no attempt to be involved or influence the outcome of this controversial construction project.

Sincerely,



Charles E. Young
President

LAW OFFICES
ZAVE H. GUSSIN
SUITE 109
910 SKOKIE BLVD.
NORTHBROOK, IL 60062

TELEPHONE
(847) 480-9160

FAX
(847) 480-9163

July 8, 2015

TO: Members of the Plan Commission
Zoning Administrator
Village Attorney
Village of Winnetka, Illinois



[Copy: Attorney for Applicant]

Memorandum re: One Winnetka Application

1. False Statement by Developer
2. New Evidence Supports Conflict of Interest (Village Attorney)
3. Legal Precedent

The undersigned represents Conney's Pharmacy. At the Plan Commission meeting held on June 24, 2015, objections were raised by the undersigned and by resident (attorney) Francis Petrek to the further participation of the Village Attorney on the basis of a conflict of interest. The Village Attorney rejected said objections, without further consideration by the Chairman or the Commission.

A key fact regarding the issue is whether Michael Klein, a principal of New Trier partners (NTP), former applicant for the same site, has or retained an interest in the current Applicant (Stonestreet Partners, LLC or One Winnetka or related entities (OW)). The relevance of that fact is that Holland & Knight, the current Village Attorney, previously represented NTP before the Village of Winnetka in NTP's application for the same site. If Michael Klein has an interest in both NTP and OW, then the Village Attorney would be in a position of advising the Village in a matter of interest to its former client. This would be a manifest conflict of interest.

In denying the objections, the Village attorney (Mr. Friedman, of Holland & Knight) stated that he was unaware of any continued participation of Michael Klein in the current Application (even though Mr. Klein was present and was introduced at the previous hearing before the Commission on April 22, 2015).

1. False Statement by Developer. As a result of said objections raised at the June 24 hearing, a Commissioner asked David Trandel (principal of OW) point blank whether Michael Klein had any interest in the current development; and Mr. Trandel flatly denied same. That denial contradicts a previous statement made by Mr. Trandel, and other contrary evidence, as follows:

A. Letter of NTP 3/8/08 showing cc to Michael Klein (Exhibit A).

B. Letter of Village of Winnetka 7/17/08 showing Holland & Knight as attorneys for applicant NTP (Exhibit B).

C. Excerpt (P-15) from Plan Commission minutes of 4/22/15 meeting. "Mr. Fosco stated that with regard to ownership in the group, he asked if Michael Klein is an owner. **Mr. Trandel stated that he still has a carried interest.**" (Exhibit C) This directly contradicts the denial made by Mr. Trandel to a similar question at the June 24 meeting.

D. Excerpts from the deposition of Robert Goldstein (Managing Partner of NTP - See Exhibit A hereto) in the case of NTP vs. Professionals, 12 L 8465 - Circuit Court of Cook County, as follows: (i) title page identifying the case and deponent; and (ii) pp. 146-149 (Exhibit D). NTP conveyed to Winnetka Station, LLC (a related entity in OW) on or about 6/24/2013 (end of p-148). Then, on p-149: "Q. But who are the managers of Winnetka Station, LLC? A. Mr. Klein and two other gentlemen. Q. Who are the two other gentlemen? A. David Trandel and one other gentleman." When asked about NTP itself, Mr. Goldstein answered "A. Indirectly it still has an interest in the property."

The statement made by Mr. Trandel at the June 24 meeting of the Plan Commission denying any interest of Michael Klein in the present development (OW) was evasive at best, and appears to be untruthful and contradicts the statement made by Mr. Trandel at the April 22 meeting of the Plan Commission (as well as the deposition testimony referred to above).

The false statement of the Developer regarding the present interest of Mr. Klein not only bears on the issue of conflict of interest, but also should materially and adversely affect the credibility and reliability of all other statements and representations made by Mr. Trandel before the Plan Commission. In the Plan Commission's evaluation of a zoning application, the credibility and reliability of the representations made by the Applicant are crucial.

2. New Evidence Supports Conflict of Interest (Village Attorney). At the June 24 meeting, the Village Attorney, in refusing to recuse himself, stated that the present interest of Michael Klein had not been established (at least not to his satisfaction). However, the evidence presented above (and in the Exhibits hereto) firmly establishes that Mr. Klein had an interest in NTP and retains an interest in OW. It also indicates that NTP itself, the very business client, still has an "indirect" interest in the present ownership, a fact concealed before the Plan Commission (after Mr. Trandel was asked several times who the parties in interest are). Accordingly, the Village attorney is rendering legal advice to the Village on a matter regarding which his former client itself, and a principal thereof have interests. If, in light of these additional facts, the Village Attorney, upon reconsideration, still will not recuse himself, then it falls to the Plan Commission or other Village authorities to properly decide the matter.

3. Legal Precedent. The usual "conflict of interest" rules found under Professional Conduct of Attorneys and related case law do not apply here. They relate primarily to an attorney representing two clients (at the same time, or serially) where the main concerns are that confidential information obtained from one might be used to benefit the other, or that advocacy on behalf of one might redound to the detriment of the other. The Village Attorney is not an advocate here. Rather, the situation here is more analogous to that of a judge before whom a case is brought involving a former client as a Party. The Illinois Supreme Court Rules contain Canons of Judicial Ethics. Rule 63, Canon 3C provides as follows:

(1) A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where: ... (b) the judge served as a lawyer in the matter in controversy, or a lawyer with whom the judge previously practiced law served during such association as a lawyer concerning the matter...."

While not actually acting as a judge, the Village Attorney renders legal advice and opinions regarding proceedings pending before the Village, and therefore his role and function is analogous to that of a judge. The fact that he (his firm) previously represented a client regarding the same property before the same Village, which client still has an interest in the current Application, certainly is an instance of "a proceeding in which the judge's impartiality might reasonably be questioned."

I have found only one case in which the facts bear a similarity to ours, that being *Kenner v. Commissioner of Internal Revenue*, 387 F. 2d 689 (C.A. 7, 1968). In that case, Plaintiff had been represented before the IRS by private tax attorney Barnes. Later, Barnes became chief counsel of the IRS and acted officially with regard to the same matter. Plaintiff alleged "fraud on the tax court." The 7th Circuit did not sustain the claim of fraud. However, it did state as follows, at 692:

We think, however, that an attorney in this type of situation should scrupulously avoid even the appearance of representation of a second client in a matter on which he has represented the first.

In the matter at hand, it has been established that there is a common party or parties in interest, NTP itself and/or its principal Michael Klein, between the company previously represented by Holland & Knight before the Village of Winnetka and those involved in the current Application, pertaining to the same property. There is an actual conflict, and most certainly, at the very least, an appearance of conflict and a reasonable basis for questioning the "scrupulous" impartiality of the Village Attorney. The use of multiple parties and inter-related entities may have legitimate business purposes, but it cannot and should not conceal the fact and substance of the interests of the various persons and entities involved.

ZAVE H. GUSSIN

As indicated in my previous Memo of 6/22/15, nothing herein is intended to impugn the personal integrity of Mr. Friedman; but the position of Holland & Knight is not tenable under the circumstances (and particularly, where Developer has made contradictory statements under oath regarding key facts bearing on the issue and has concealed relevant facts).

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Zave H. Gussin', written in a cursive style.

Zave H. Gussin
Attorney for Conney's Pharmacy

11 March 2008

Via Federal Express Overnight

James Reddy
Lake Michigan Financial
One East Wacker Drive
Suite 2850
Chicago, IL 60601

Via Hand Delivery

Mark Jacobs
Conney's Pharmacy
736 Elm Street
Winnetka, IL 60093

Re: Conney's Pharmacy

Gentlemen:

I enclosed another copy of my prior letter to you dated 18 January 2008.

Our proposed plans have been well received thus far by the Village of Winnetka and other interested residents. As I mentioned, the Village has repeatedly asked us about whether your property will be included in the redevelopment. Their interest emanates from the fact that the community as a whole would benefit considerably if the southeast corner of Lincoln and Elm would become a year round central gathering place.

Finally, I enclosed a letter from CVS regarding their interest in the acquiring your customer list and certain other assets if you are amenable to selling your building.

Thank you in advance for your cooperation.

Cordially,



Robert G. Goldstein
Managing Partner

RGG/sc

cc: Michael B. Klein

EXHIBIT A

S:\DEALS\ACTIVE\Winnetka Redevelopment (0801005)\Correspondence\Conney's 02.27.08.doc

500 Skokie Blvd.
Suite 100

P 847.564.6800
F 847.564.6804

www.newtrierpartners.com

**New Trier Development LLC
511, 513-515 Lincoln Avenue and
718-732 Elm Street**

**Appearances filed
Plan Commission**

For Applicant: Steven M. Elrod
Holland & Knight LLC
30th Floor
131 South Dearborn Street
Chicago, IL 60603

Interested Parties: Frank R. Petrek, Jr. (Owners of Unit 409 – 711 Oak Street)
Rebecca Petrek
437 Chestnut
Winnetka, IL 60093
Phone: 847-446-3418
E-mail: rpetrek@ameritech.net

Mark Jacobs
Arshad Gazi
Conney's Pharmacy
736 Elm Street
Winnetka, IL 60093
Phone: 847-446-0032

Peter Skalski
Phototronics
740 Elm Street
Winnetka, IL 60093
Phone: 847-441-7927
E-mail: pskalski@aol.com

hoping through market studies to charge \$2.90 (?) per foot for rental. He noted that it is not cheap and that they would strive to get to a certain return on capital and yield cost. Mr. Trandel also stated that it is expensive to go to 7 stories and that it would be cheaper to go to 5½ stories. He stated that they are trying to make an accommodation to the neighbors by going taller and thinner. Mr. Trandel noted that there would be no shadow impact by the plan and that there would be no bulking or blocking of air unless the first floor experts opine to that. He then stated that they are not saying take it or leave it and that there was a show of respect to all of the neighbors.

Mr. Fosco asked if they consulted with the fire department.

Mr. Trandel noted that a ladder can go to 86 feet and that consultation was done before the plan was submitted.

Mr. Fosco stated that with regard to ownership in the group, he asked if Michael Klein is an owner.

Mr. Trandel stated that he still has a carried interest. He indicated that there are handful of investors, most of whom are Winnetka residents.

Mr. Fosco asked if they planned to make the list public.

Mr. Trandel stated that they would not and that it would not be fair and to let each person decide.

Chairperson Dalman asked Mr. Fosco and Mr. Brown how much more time would they need. She also asked if they are representing the homeowners' association.

Mr. Fosco stated that he is representing himself as an owner.

Chairperson Dalman indicated that it sounded like there were prior meetings with the homeowners' association. She then asked if there was anyone here speaking for the 711 Oak homeowners' association.

Mr. Fosco stated that he is an individual owner.

Chairperson Dalman stated that she wanted to make it clear that no one is speaking for the homeowners' association as a group.

Mr. Fosco responded that is correct.

Chairperson Dalman then asked if Frank Petrek is the homeowner's association's designee.

Mr. Brown stated that Mr. Trandel met with Mr. Petrek and Peter Tyor of the condominium board twice. He informed the Commission that last summer, a presentation was made to the whole association. Mr. Brown informed the Commission that three of them filed appearances.

Chairperson Dalman asked what position did the board take.

EXHIBIT C

1 STATE OF ILLINOIS)
) SS.
2 COUNTY OF C O O K)

3 IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
4 COUNTY DEPARTMENT-LAW DIVISION

5 NTP-LINCOLN AVENUE, LLC,)
)
6 Plaintiff,)
)
7 -vs-) No. 12 L 8465
)
8 PROFESSIONALS ASSOCIATED SURVEY, INC.,)
)
9 Defendant.)

10 The deposition of ROBERT GOLDSTEIN,
11 taken for the purpose of discovery, before Natalie M.
12 Diaz, a Certified Shorthand Reporter within and for
13 the County of Cook and State of Illinois, at 542 South
14 Dearborn Street, Suite 1400, Chicago, Illinois,
15 commencing on the 31st day of January, A.D., 2014, at
16 the hour of 10:05 a.m.

17
18
19
20 EXHIBIT D
21
22
23
24

Page 146

1 didn't believe that the easement was valid, true?

2 A. It says: Our understanding of the

3 existing case law is that a grant of easement must be

4 definite, certain and unequivocal in its terms. The

5 1923 deed is not sufficiently certain. Legal opinions

6 aside.

7 Q. What I'm asking you is at this point on

8 September 10, 2008 you advised Conney's that you

9 didn't believe it was valid?

10 A. I told Conney's a number of things and

11 that was a letter sent to them to in the context of

12 trying to negotiate a development and include them in

13 a process so I can't -- it's one component of what I

14 communicated.

15 Q. Were you truthful in this letter?

16 A. Yes.

17 Q. Now, as you stand here today, there's

18 been no court decision to determine whether or not the

19 1923 easement is valid or not, correct?

20 A. I don't know.

21 Q. And as you stand here today you don't

22 know if the 1923 easement is valid or not; isn't that

23 true?

24 A. I don't know.

Page 147

1 Q. Now, did you -- did you or any related

2 company acquire any other buildings adjacent to the

3 Fell property?

4 A. Yes.

5 Q. What was that called?

6 A. That was called the Baird & Warner

7 building that was at 714-716 Elm Street.

8 Q. And did you, in fact, convey the

9 Bumblebee property into a new LLC known as the

10 Winnetka Station, LLC?

11 A. Yes.

12 Q. And did you also convey the Fell property

13 to a -- the Winnetka Station, LLC?

14 A. Yes.

15 Q. Did you also convey what you refer to as

16 the Baird & Warner property --

17 A. Yes.

18 Q. -- to the Winnetka Station, LLC?

19 What's the address of the Baird &

20 Warner property?

21 A. As I just told you, 714-716 Elm Street.

22 (A DOCUMENT WAS MARKED FOR

23 IDENTIFICATION AS DEPOSITION

24 EXHIBIT NO. 25.)

Page 148

1 BY MR. GUTMAN:

2 Q. I show you Exhibit No. 25. Isn't that

3 the recorded deed for the Bumblebee property?

4 A. Yes.

5 (A DOCUMENT WAS MARKED FOR

6 IDENTIFICATION AS DEPOSITION

7 EXHIBIT NO. 26.)

8 BY MR. GUTMAN:

9 Q. I show you No. 26. Isn't that the

10 recorded deed for the Fell property?

11 A. Yes.

12 (A DOCUMENT WAS MARKED FOR

13 IDENTIFICATION AS DEPOSITION

14 EXHIBIT NO. 27.)

15 BY MR. GUTMAN:

16 Q. I show you 27. Isn't that the recorded

17 deed for the Baird & Warner property?

18 A. Yes.

19 Q. All three of these properties from

20 Exhibit No. 25, 26 and 27 were all deeded into this

21 new entity of Winnetka Station, LLC on or about June

22 24, 2013, correct?

23 A. Correct.

24 Q. NTP-Lincoln no longer has any ownership

Page 149

1 interest in the Bumblebee property?

2 MR. TONE: I'm going to object. That's

3 speculating. Go ahead.

4 THE WITNESS: I don't think that's

5 accurate.

6 BY MR. GUTMAN:

7 Q. What ownership interest does NTP-Lincoln

8 have in the Bumblebee property?

9 A. Indirectly it still has an interest in

10 the property.

11 Q. Indirectly but the --

12 A. Yes.

13 Q. But who are the managers of Winnetka

14 Station, LLC?

15 A. Mr. Klein and two other gentlemen.

16 Q. Who are the two other gentlemen?

17 A. David Trandel and one other gentleman.

18 Q. What's his name, the other gentleman?

19 A. I don't know.

20 Q. And what is Mr. Trandel's role at

21 Winnetka Station, LLC?

22 A. He's our partner and he's a developer.

23 Q. Is he, in fact, the manager?

24 A. He may be one of the managers, yes.

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July 15, 2015

Members of the Plan Commission
Zoning Administrator
Village Attorney
Village of Winnetka, Illinois

[Copy: Attorney for Applicant]

Re: Application of One Winnetka
Supplemental Memorandum #2



Introduction

The undersigned, representing Conney's Pharmacy, filed Objections dated April 13, 2015 dealing, in part, with legal aspects of Applicant's request for a vacation of a portion of Lincoln Avenue. At the Plan Commission meeting on April 22, 2015, counsel for Applicant was granted two weeks to Respond (and the undersigned was granted leave to Reply). Applicant's counsel agreed to send me a copy of his Response. None was received by me. Assuming that no Response had been filed by Applicant, I filed a Supplemental Memorandum on June 22, 2015.

At the Plan Commission meeting on June 24, 2015, I was advised by the Chairperson that a Response had been filed by Mr. Trandel (a non-attorney). Accordingly, this Supplemental Merorandum #2 is in Reply thereto. [I have appropriately sent directly to Applicant's attorney a copy of everything I have filed.]

Reply to Mr. Trandel's Letter Dated May 17, 2015

Mr. Trandel cites only three cases in his letter: The *Ray* case, the *Sharp* case, and the *Kelo* case. The first two had already been cited previously by me. His use and characterization of such cases are erroneous, illogical and misleading, and this Reply will analyze each case.

1. Mr. Trandel's characterization of the *Ray* case is erroneous. The *Ray* case (*Ray v. City of Chicago*, 169 NE 2d 73, 1960) is the last word by the Illinois Supreme Court on the subject. I have found no later case which reverses or modifies it on the point of law relevant hereto, and Mr. Trandel has cited none. It holds that while the municipality's determination of a public benefit in vacating a street or alley is generally conclusive, "if it appears for a fact that the purported vacation is for a purely private purpose the ordinance will be declared void" (at 76). Any public interest served by the vacation must be "substantial" (*Ibid*).

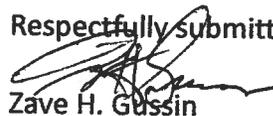
In an apparent attempt to avoid the impact of the *Ray* case, Mr. Trandel states the following in his Response: "Also, *Ray*, is a case involving eminent domain and a taking of private property by a governmental entity for purely private use." That is a patent misrepresentation. The *Ray* case was brought "to declare invalid a Chicago ordinance vacating the one-block portion of Surf Street between Lake Shore Drive and Commonwealth Avenue and an alley in the block to the north" (at 74). Eminent Domain is not the subject of the case, nor is it even mentioned. Mr. Trandel's erroneous characterization of the *Ray* case is egregious.

2. Mr. Trandel's Reliance on the *Sharp* Case is Misguided. In his letter, Mr. Trandel relies heavily on *People ex rel. Sharp v. City of Chicago*, 148 NE 2d 481 (Ill. S. Ct., 1958), and quotes extensively therefrom. This is untenable in light of the fact that the Supreme Court, in its later *Ray* case, clearly distinguished the *Sharp* case. The Court stated: "there was no showing [in the *Sharp* case] that the alley vacated was necessary for access to properties in the block or that it had been extensively used by the travelling public" (at 77). By contrast, Lincoln Avenue is extensively used and affords access to Conney's property. (Perhaps that's why Mr. Trandel attempted to mis-characterize the *Ray* case as an "eminent domain" case, when it is not.) Relying on and citing the earlier *Sharp* case which has specifically been distinguished by the later *Ray* case is neither compelling nor persuasive.

3. The *Kelo* case, cited by Mr. Trandel, is irrelevant. As described above, Mr. Trandel attempted erroneously to distinguish the *Ray* case as inapplicable because it was an "eminent domain" case. But the one new case that Mr. Trandel cites and quotes from - *Kelo v. City of New London*, 545 U.S. 469 (2005) - is in fact an eminent domain case. It was decided under the "takings clause" of the 5th Amendment to the U.S. Constitution, and not under the Illinois statutes regarding the vacation of streets and alleys. It involved New London taking privately owned property, not New London vacating a street. Mr. Trandel himself, in the early part of his letter, recognized that an eminent domain case would not be pertinent; and yet, the one new case he cites is an eminent domain case. This is inconsistent and illogical. The *Kelo* case has no relevance here. Winnetka is not "taking" someone's private property.

The cases upholding a public benefit in vacating a street or alley all deal with the cost of maintaining an unused or little used street or alley, or safety factors relating to the condition or configuration of the way. None of those cases deal with a major, well-traversed thoroughfare such as Lincoln Avenue. Vacating part of Lincoln Avenue would not serve any substantial public benefit, but would be undertaken only in order to benefit a private developer. This would clearly be void under the *Ray* case which, as mentioned above, has not been reversed or modified; and Applicant has cited no later case which is inconsistent with the *Ray* holding.

Respectfully submitted,



Zave H. Gussin

Attorney for Conney's Pharmacy

From: [Jessica Tucker](#)
To: [OneWinnetka](#); [Brian Norkus](#)
Subject: One Winnetka proposal.
Date: Thursday, July 16, 2015 10:36:32 AM

Dear Winnetka Plan Commissioners:

Thank you again for your continued due diligence and vetting of the One Winnetka proposal as it relates to our Comprehensive Plan and Planned Development Ordinance. The following remarks are a supplement to my earlier remarks (regarding the original 7-story proposal) after having heard the developer's latest iteration on June 24th calling for heights up to 73 feet, 6 stories and 80-plus residential rental units, as well as the ensuing questions, discussion, and public comments:

1. At a minimum, computer-generated drawings with accurate height measurements relative to the entire neighborhood and views from various directions: the Village Green, Village Hall, Lincoln Avenue, Elm Street should be provided, as well as the height of the anticipated tree canopy. The commercial/residential neighborhood is comprised of two and three-story buildings at less than 45 feet so massing, scale, bulk, proportions, tunnel effect, scope and other dimensions continue to be important factors. A three-dimensional model to scale would be very helpful as well.
2. Of concern are the relationships among New Trier Partners investors, One Winnetka investors and the Village attorney law firm, Holland & Knight. The question of a conflict of interest, real or apparent, and of an appearance of impropriety should be thoroughly vetted and aired. In my experience on the Village Council, Winnetka has held itself to exemplary ethical standards. When an concern arose in the public's eye, we always erred on the side of greater scrutiny, not less. Local officials have had to recuse themselves from votes, speak from the floor and not the dais, or step down from recommending bodies because it was the right thing to do.
3. The public portion of the underground parking garage is, in my view, a positive proposal to move commuters (and employees) out of much needed surface parking for shoppers. However, removing this street parking altogether and forcing shoppers to also park underground is not a positive trade-off in my opinion.
4. Also of concern is the possibility of a public fitness center that would compete with the Winnetka Community House and take away an important source of revenue for this cherished Winnetka institution.
5. The February Winnetka Caucus survey regarding the then 7-story proposal clearly showed the majority of respondents favored **3 or 4** stories-45 feet (see: www.winnetkacaucus.org) the maximum zoning height. From the hundreds of public comments then and now, any proposed exception(s) should be considered with caution. The former approved redevelopment project at its highest point reached 49.5' and many still considered that height and companion bulk and density too overwhelming and congested for that small shopping district. The Village Council's 2014 citizen's survey also showed that

the architectural style of buildings followed by pedestrian-friendly access were the two most-important characteristics of Winnetka's historic business districts.

I encourage you to insist that the developer bring you a proposal in compliance with our ordinances, in the spirit of our Comprehensive Plan and recent community-wide citizen surveys, rather than having you spend your volunteer time and effort reviewing incremental proposals that are out of sync with our historic heritage and small-town charm and character that is synonymous with 'beautiful land.'

With the appropriate redevelopment, we are all looking forward to a renewed and revitalized East Elm shopping district we can be proud of and embrace.

Thank you for your consideration,

Jessica Tucker
Winnetka, IL

From: [Kathy Fox](#)
To: [OneWinnetka](#)
Subject: One winnetks plans
Date: Thursday, June 25, 2015 7:07:03 PM

Dear Trustees,

The new plans for this group's development are still objectionable for the following reasons:

The beaux arts design is totally at odds with the rest of the village architecture. A Tudor design would go a long way to make the new buildings look like they belong here.

Five stories is still too tall. Can't the developer read and honor our zoning rules? Frankly I think four stories are too many. Highland Park managed to redevelop without allowing massive outside buildings.

Taking Lincoln Avenue out is totally unacceptable. Why would we grant such a favor to a developer? It sets a bad precedent and is a bad idea.

Seventy units still is too many. Again, why do these developers think they don't have to respect our laws, some of which have just been recently liberalized?

As trustees who care for this Village, please use your power to assure that we have a development that complements and enhances our beautiful village!!

Kathy Fox
 Sheridan

Sent from my iPhone