

August 1, 1960

Barrington Village Plan Commission
Village Hall
Barrington, Illinois

Re: Valenti-Jewel, Chicago Construction and
Mandernach Petitions for Pre-Annexation Zoning

Gentlemen:

The above three petitions present similar problems. When considered in conjunction with each other, which they must be in view of the close filing of these petitions, the problems accumulate to such a point that they deserve the most serious consideration of the residents of the village and of the village officials. This letter is written in the hope that it may contribute something to the analysis and solution of these problems.

Two premises appear fundamental to an analysis of these problems:

1. The village is completely within its legal right to reject each and all of these petitions and cannot be compelled to annex these areas.
2. Since this is true the village should only annex if the advantages of annexation outweigh the disadvantages.

The advantages and disadvantages of annexation may be summarized as follows:

Advantages of Annexation

1. Annexation may prevent the construction in these areas of homes which are below the standards prevailing in the village.

However, county codes do exercise some control over these areas while they remain outside of the village limits. Moreover, under state law no "subdivision presented for record. . . shall be entitled to record or shall be valid unless the subdivision shown thereon provides for streets, alleys, ways for public service facilities, storm or flood water run-off channels and basins and public grounds" and is "in conformity with the applicable requirement of the Official Plan." (Ill. Revised Statutes, Ch. 24, 53-3.) Consequently, the village can require that any subdivider comply with the Official Plan of the Village even though he chooses not to annex.

2. Increased revenue to the municipality from property, sales, use and gasoline taxes.

However, see disadvantage no. 10 below.

3. Possible increased business for local merchants.

On the other hand, the subdivisions may injure downtown merchants. Sec. 13.

2-1 of the Zoning Code allows any use which could be conducted in a business district to be conducted in a manufacturing district. While the manufacturing

area proposed for the Jewel-Valenti annexation does not appear to lend itself to a shopping center (at least until Highway 59 is re-routed), the development of a future shopping center in other areas will be accelerated if these subdivisions are permitted.

4. Increased water supply resulting from the purchase by the village of the 10" wells located on the Valenti and Jewel Properties.
5. Prevention of possible annexation by another village.

This risk seems minimal. The developers would hardly seek annexation to Deer Park which was created to preserve zoning on a multi-acre basis. The only other village with access to this land is Lake Zurich. No one has suggested any reasons why Lake Zurich would want to extend its borders to this area and be faced with all of the problems which annexation would bring to that village. A glance at a topographical map will reveal that Lake Zurich would be faced with very severe sewer problems if it attempted to annex this land and allow subdivision.

6. Undesirability of additional septic systems on a one-acre basis in the immediate vicinity of the village.

There is considerable dispute as to whether or not septic tanks will function properly over an extended period of time. However, see disadvantage no. 3, below.

Disadvantages of Annexation

1. If annexed as petitioned the population of the village will increase approximately 50% (2800 people based on 714 homes at 4 per home) and this in turn will result in greatly increased intensity of land use.
2. Necessity of employing more teachers and ultimately of building additional schools to provide for the school needs of the families moving into the area.

The speed required will depend directly on the rapidity of development of those areas.

3. Increased burden on the village's sewage treatment plant.

Our sewage treatment plant is now approaching capacity usage and the rapid development of any one of these areas will quickly necessitate the building of an additional sewage treatment plant at a cost of several hundred thousand dollars.

4. Increased burden on our water supply system.

Additional water will, of course, be available if the Valenti-Jewel wells are acquired, but the cost of developing two 10" water wells with the necessary water lines to and from the pumping station may be greater than the cost of drilling one 16" well in a more suitable location. Moreover, one 16" well will produce more water.

5. Increased traffic congestion on our streets and highways.
6. Increased parking congestion.
7. Additional expense for maintaining new streets, sewers, sidewalks and water lines.
8. The danger of protracted litigation if the subdivisions are annexed on the bases proposed by the developers.

Section 4.3 of the Village Zoning Ordinance provides that newly annexed land is automatically five acres unless the Village grants a change in zoning classification "in harmony with density and land use designations shown for such property on the Official Plan" (Kincaid Plan). Section 16 of the Zoning Ordinance specifies that the ordinance sets up minimum requirements. Consequently, we feel that there is grave danger that pre-annexation zoning which does not comply with the Official Plan may be legally invalid.

9. Necessity of providing public services such as police protection, fire protection, garbage collection and disposal, and other essential public services.
10. Increased taxes for all residents and taxpayers in the village.

The cumulation of increased expense to the village, the park and the school districts will mean substantially increased tax expense to the taxpayers of the village. The additional tax expense resulting from the necessity of supplying all of these additional services will more than offset the increased revenue which may be expected to result from additional assessed valuations, sales, gasoline and other taxes. The net result will be more tax expense to the present residents and taxpayers of the village.

Choices Available

The Board of Trustees has several choices which it may make with respect to each of these petitions:

1. To reject;
2. To zone and annex as petitioned;
3. To zone and annex after requiring modifications in the subdivision plats and petitions so that the subdivisions will conform to the extent practical to the transitional areas contemplated by the Comprehensive Village Plan of 1958 and such other modifications as may occur to members of the Plan Commission and Village Board;
4. To submit the petition, either with or without modification, to a referendum of the citizens of the village. (See Illinois Revised Statutes, Ch. 24, Sections 7-5 and 7-6 which provide that the corporate authorities may order a referendum or a petition for referendum may be filed in connection with annexations.)

Basic Recommendation

From the viewpoint of residential home owners, the disadvantages outweigh the advantages of annexation. Consequently, the Board of Directors of the Barrington Home Owners Association recommends to the Plan Commission and to the Village Board that each of these petitions be rejected.

This basic recommendation is supported by the overwhelming majority of the members of the association who have expressed themselves on this question. At the public hearing on the proposed Valenti-Jewel annexation petitions signed by 391 residents of the village were presented in opposition. Only 9 expressed themselves in favor. Subsequently, additional petitions have been received by the Barrington Home Owners Association increasing the total against to 417. No additional petitions in favor have been received, so the total in favor remains 9.

Other Areas for Investigation

While the Barrington Home Owners Association is opposed to annexing any of these areas, it recognizes that there may be some who would favor annexation if certain modifications in the petitions were made. We, therefore, suggest that the following actions will prove helpful in the analysis both of the pending petitions and of any modifications which may be submitted:

1. All three petitioners should be requested to revise their plans to provide for the maximum gradation conforming to the Official Plan which the physical topography of the land will permit.
2. Each petitioner should be requested to revise his petition so as to designate each lot by number and to show the zoning desired for each numbered lot in the petitioner's subdivision rather than showing only one zoning for the entire subdivision. (e.g., Valenti and Mandernach petitioned for R-7, 10,000 sq. feet for their entire subdivisions; Chicago Construction for R-6, 15,000 sq. ft.) Such designation by lot number would clearly indicate whether the desired gradation is being accomplished.
3. The Village President and Board of Trustees should cause to be prepared a possible plan covering not only the area encompassed by the Valenti petition, but also the eighty acres immediately south thereof and adjacent to the village so that the gradation can be laid out from the northerly boundaries of the village to the northerly boundary of the area comprising the Valenti land. Provision for the development of such a plan is contained in Section 3, Paragraph E of our Subdivision Regulations which reads as follows:

"Where a tract of land is proposed for subdivision that is part of a larger, logical subdivision unit in relation to the Village as a whole, the Village President and Board of Trustees may cause to be prepared, a possible plan of the entire area; such plan to be used by the Planning Commission and the Village Board as an aid in judging the proposed plat."

4. In view of the complete absence of a neighborhood park east of the Northwest Highway, the Chicago Construction Company plan should be revised to provide for a small park of from 8 to 12 acres.
5. In order to encourage these developers to develop these areas on a less intensive land use basis, such as R-3 (one acre) and R-4 (30,000 sq. ft.), the village officials should compare the total tax cost to the taxpayers of the area over a ten year period of providing all or part of the cost of sewer and water facilities needed by these areas at village expense with the total tax cost which will be incurred if the areas are developed on the more intensive land use basis for which petitioners have applied. Although the initial expense to the village would be greater, we believe that the reduced intensity of use would cause the total (village, school, etc.) tax expense to the taxpayers of the village to be less over the course of a ten year or longer period than if the properties are permitted to be developed on the zoning petitioned for.
6. The Village Board should retain an independent competent tax consultant to determine the tax impact of the proposed annexations on the taxpayers of the village.

Finally, we again urge the Village Officials to annex only if the advantages of annexation outweigh the disadvantages, and we respectfully suggest that such is not the case.

BARRINGTON HOME OWNERS ASSOCIATION

By:

President

By Authority of the Board of Directors

cc: President and Board of Trustees,
Village of Barrington

CHICAGO AND NORTH WESTERN RAILWAY COMPANY (hereinafter called "Railway Company") hereby

licenses WILLIAM W. BROUGH

(hereinafter called "Licensee") to construct, maintain and use, an 8" sanitary sewer line

(hereinafter called "facility") upon the property of the Railway Company at Barrington, Illinois,

in the location and position, and in accordance with the specifications shown on map dated

August 5, 1963,

hereto attached marked Exhibit "A" and, by this reference, made a part hereof.

The foregoing license is given upon such express terms and conditions as are inserted below, as well as those contained upon the subsequent printed pages, and should the Licensee at any time violate any of said terms or conditions, or use or attempt to use said facility for any other or different purpose than that above specified, then the Railway Company may, at its option, immediately revoke this license.

For the privileges herein permitted the Licensee shall pay to the Railway Company the sum of Five Thousand Dollars (\$5,000.00).

It is understood and agreed that if the Licensee ever discontinues use of said facility for the purpose licensed that this license will terminate forthwith.

The foregoing license is subject to the following conditions:

First. The work of construction and maintenance shall be done and completed in good and workmanlike manner at the sole expense of the said Licensee. Said work shall be done in such manner as in no way to interfere with or endanger the use of the property or tracks of the Railway Company, or the operation thereon of any engines, cars or trains. The Chief Engineer of the Railway Company shall have the right to inspect such work from time to time and to require such changes to be made as will in his opinion decrease the hazards incident to said facility; but any such inspection or required changes or any failure to so inspect, or to require changes to be made, shall not affect any of the obligations assumed by the said Licensee hereunder.

Second. The said Licensee shall bear the cost of all protection which the Railway Company may require for its tracks or property during construction and maintenance hereby authorized and of all repairs, changes, additions or betterments to said Railway Company's tracks or property made necessary on account of same. If in the judgment of the Railway Company it shall be necessary to provide support for its tracks during the work of construction or maintenance the Railway Company will provide such support, and the entire cost thereof will be paid by the said Licensee promptly upon receipt of bill therefor.

Third. The Licensee shall pay all taxes, general and special, license fees or other charges which may become due or which may be assessed against the premises of the Railway Company because of the construction, existence, operation or use of said Facility, the Licensee, or the business conducted in connection with said Facility, and shall reimburse the Railway Company for any such taxes, license fees or other charge which may be paid by the Railway Company promptly upon the presentation by the Railway Company of bills therefor.

Fourth. The said Licensee will give to the Chief Engineer of the Railway Company at least ten days' notice in writing before entering upon the right of way of the Railway Company for construction purposes, or for the purpose of making necessary repairs. The Railway Company reserves the right to judge of the necessity of repairs to said facility, and to require the Licensee to make such repairs upon ten days' notice in writing. In such case, said Licensee may enter upon said right of way without the ten days' notice above referred to, and shall proceed forthwith to make such repairs, and upon failure to do so within ten days, the Railway Company shall have the right to make said repairs and collect the entire cost thereof from the Licensee. The Railway Company reserves the right, in case in its opinion the safety of its tracks or property demands it, to make emergency repairs without notice to the Licensee and to collect the cost thereof from Licensee as herein provided.

Fifth. It is understood by the Licensee that said facility is subject to and may increase the dangers and hazards of the operation of the railroad of the Railway Company, and that this license is subject to all risks thereof. Therefore, the Licensee assumes and agrees to pay for all loss or damage to property whatsoever, and injury to or death of any person, or persons whomsoever, including all costs and expenses incident thereto, however arising from or in connection with the existence, construction, maintenance, repair, renewal, reconstruction, operation, use or removal of said facility, or any defect therein or failure thereof, or the failure of the Licensee or members, officers or agents of the Licensee to abide by or comply with any of the terms or conditions of this license; and the Licensee forever indemnifies the Railway Company against and agrees to save it harmless from any and all claims, demands, law suits or liability for any such loss, damage, injury and death, costs and expenses, even though the operation of the Railway Company's railroad may have caused or contributed thereto.

Sixth. The Railway Company reserves the right to use, occupy and enjoy its tracks, property and right of way, for such purpose, in such manner, and at such time as it shall desire, the same as if this instrument had not been executed by it. If any such use shall necessitate any change in the location or construction of said facility, or any part thereof, such change shall be made by the Licensee, at the expense of the Licensee, upon demand of the Railway Company, and the said Railway Company shall not be liable to the said Licensee on account thereof, or on account of any damage growing out of any use which the Railway Company may make of its said tracks, property and right of way.

In case any of the terms or provisions of this license have been performed or carried out prior to the actual date of execution hereof, it is understood and agreed that this license shall nevertheless be of the same force and effect as though same had been executed by the parties prior to such performance.

Seventh. ~~The Railway Company shall have the right at any time to revoke this license by giving thirty days' notice in writing to the Licensee and at the expiration of the time limited by said notice.~~ Upon any other revocation of this license, the Licensee shall promptly, and in the manner directed by said Chief Engineer, remove all construction hereby authorized from the premises of the Railway Company and leave said premises in the same condition in which they were before the installation of the same. Upon default of the Licensee so to do, the Railway Company may remove the same and restore its premises, and the Licensee will promptly pay to the Railway Company the cost of so doing.

Eighth. The waiver of a breach of any of the terms or conditions hereof shall be limited to the act or acts constituting such breach, and shall never be construed as being a continuing or permanent waiver of any such terms or conditions, all of which shall be and remain in full force and effect as to future acts or happenings, notwithstanding any such waiver.

Ninth. This license is personal to said Licensee and is not assignable or transferable, without the written consent of the Railway Company being first obtained.

In Witness Whereof this instrument is executed this _____ day of _____, 19____

ATTEST:

CHICAGO AND NORTH WESTERN RAILWAY COMPANY

Secretary

By _____
PRESIDENT

The undersigned, the Licensee mentioned in the foregoing license, hereby accepts the same subject to the terms and conditions therein stated.

WITNESS: _____

WILLIAM W. BROUGH (Seal)

APPROVED:

Form *C. H. Dickman*
Attorney

Engineering *B. R. Meyers*
VICE PRESIDENT AND CHIEF ENGINEER

Land *J. M. Taylor*
Interests: MANAGER - REAL ESTATE DEPARTMENT

Operation *L. C. Jones*
Vice President-Operation

CHICAGO AND NORTH WESTERN RAILWAY COMPANY (hereinafter called "Railway Company") hereby

licenses VILLAGE OF BARRINGTON, ILLINOIS,

(hereinafter called "Licensee") to construct, maintain and use, an 8" sanitary sewer line

(hereinafter called "facility") upon the property of the Railway Company at Barrington, Illinois,

in the location and position, and in accordance with the specifications shown on map dated _____

August 5, 1963

hereto attached marked Exhibit "A" and, by this reference, made a part hereof.

The foregoing license is given upon such express terms and conditions as are inserted below, as well as those contained upon the subsequent printed pages, and should the Licensee at any time violate any of said terms or conditions, or use or attempt to use said facility for any other or different purpose than that above specified, then the Railway Company may, at its option, immediately revoke this license.

For the privileges herein permitted the Licensee shall pay, or shall arrange with others to pay, to the Railway Company the sum of ~~Five Thousand Dollars (\$5,000.00)~~ One Dollar \$1.00

It is understood and agreed that if the Licensee ever discontinues use of said facility for the purpose licensed that this license will terminate forthwith.

The foregoing license is subject to the following conditions:

First. The work of construction and maintenance shall be done and completed in good and workmanlike manner at the sole expense of the said Licensee. Said work shall be done in such manner as in no way to interfere with or endanger the use of the property or tracks of the Railway Company, or the operation thereon of any engines, cars or trains. The Chief Engineer of the Railway Company shall have the right to inspect such work from time to time and to require such changes to be made as will in his opinion decrease the hazards incident to said facility; but any such inspection or required changes or any failure to so inspect, or to require changes to be made, shall not affect any of the obligations assumed by the said Licensee hereunder.

Second. The said Licensee shall bear the cost of all protection which the Railway Company may require for its tracks or property during construction and maintenance hereby authorized and of all repairs, changes, additions or betterments to said Railway Company's tracks or property made necessary on account of same. If in the judgment of the Railway Company it shall be necessary to provide support for its tracks during the work of construction or maintenance the Railway Company will provide such support, and the entire cost thereof will be paid by the said Licensee promptly upon receipt of bill therefor.

Third. The Licensee shall pay all taxes, general and special, license fees or other charges which may become due or which may be assessed against the premises of the Railway Company because of the construction, existence, operation or use of said Facility, the Licensee, or the business conducted in connection with said Facility, and shall reimburse the Railway Company for any such taxes, license fees or other charge which may be paid by the Railway Company promptly upon the presentation by the Railway Company of bills therefor.

Fourth. The said Licensee will give to the Chief Engineer of the Railway Company at least ten days' notice in writing before entering upon the right of way of the Railway Company for construction purposes, or for the purpose of making necessary repairs. The Railway Company reserves the right to judge of the necessity of repairs to said facility, and to require the Licensee to make such repairs upon ten days' notice in writing. In such case, said Licensee may enter upon said right of way without the ten days' notice above referred to, and shall proceed forthwith to make such repairs, and upon failure to do so within ten days, the Railway Company shall have the right to make said repairs and collect the entire cost thereof from the Licensee. The Railway Company reserves the right, in case in its opinion the safety of its tracks or property demands it, to make emergency repairs without notice to the Licensee and to collect the cost thereof from Licensee as herein provided.

Fifth. It is understood by the Licensee that said facility is subject to and may increase the dangers and hazards of the operation of the railroad of the Railway Company, and that this license is subject to all risks thereof. Therefore, the Licensee assumes and agrees to pay for all loss or damage to property whatsoever, and injury to or death of any person, or persons whomsoever, including all costs and expenses incident thereto, however arising from or in connection with the existence, construction, maintenance, repair, renewal, reconstruction, operation, use or removal of said facility, or any defect therein or failure thereof, or the failure of the Licensee or members, officers or agents of the Licensee to abide by or comply with any of the terms or conditions of this license; and the Licensee forever indemnifies the Railway Company against and agrees to save it harmless from any and all claims, demands, law suits or liability for any such loss, damage, injury and death, costs and expenses, even though the operation of the Railway Company's railroad may have caused or contributed thereto.

Sixth. The Railway Company reserves the right to use, occupy and enjoy its tracks, property and right of way, for such purpose, in such manner, and at such time as it shall desire, the same as if this instrument had not been executed by it. If any such use shall necessitate any change in the location or construction of said facility, or any part thereof, such change shall be made by the Licensee, at the expense of the Licensee, upon demand of the Railway Company, and the said Railway Company shall not be liable to the said Licensee on account thereof, or on account of any damage growing out of any use which the Railway Company may make of its said tracks, property and right of way.

In case any of the terms or provisions of this license have been performed or carried out prior to the actual date of execution hereof, it is understood and agreed that this license shall nevertheless be of the same force and effect as though same had been executed by the parties prior to such performance.

Seventh. ~~The Railway Company shall have the right at any time to revoke this license by giving thirty days' notice in writing to the Licensee and at the expiration of the time limited by said notice.~~ Upon any other revocation of this license, the Licensee shall promptly, and in the manner directed by said Chief Engineer, remove all construction hereby authorized from the premises of the Railway Company and leave said premises in the same condition in which they were before the installation of the same. Upon default of the Licensee so to do, the Railway Company may remove the same and restore its premises, and the Licensee will promptly pay to the Railway Company the cost of so doing.

Eighth. The waiver of a breach of any of the terms or conditions hereof shall be limited to the act or acts constituting such breach, and shall never be construed as being a continuing or permanent waiver of any such terms or conditions, all of which shall be and remain in full force and effect as to future acts or happenings, notwithstanding any such waiver.

Ninth. This license is personal to said Licensee and is not assignable or transferable, without the written consent of the Railway Company being first obtained.

Tenth. ^{further} In consideration of the Railway Company's giving to the Licensee the rights and privileges above specified ~~without any charge therefor~~, the Licensee, by the acceptance of this license, hereby agrees that it will not levy or assess any special tax or special assessment against Railway Company or against or upon Railway Company's properties for the construction or use of the improvement of which said facility is a part; and, the Licensee hereby forever indemnifies Railway Company against and agrees to save Railway Company harmless from any and all claims, demands, lawsuits or liability whatsoever for any such special tax or special assessment. If, notwithstanding the foregoing provisions, any such special tax or special assessment shall be levied or assessed upon or against said Railway Company's properties, the Railway Company shall have the following elections, to wit:

- (a) Railway Company may make such payments as may be necessary to satisfy and discharge any liens for such special tax or special assessment and in case of such payment the Licensee agrees to make repayment on demand with interest at the rate of five per cent (5%) per annum from the date of such payment so made by Railway Company.
- (b) Railway Company may file this license agreement for recording in the office of the Recorder of Deeds of the county in which said properties are located and such filing shall constitute a complete discharge and release of any lien against said Railway Company's properties for such special tax or special assessment.
- (c) Railway Company may terminate this license by filing a notice of termination with such Recorder of Deeds for recording and forwarding a copy thereof through certified or registered mail, postage prepaid to Licensee whereupon all rights, privileges and interests herein granted to Licensee shall immediately cease and determine with the right of Railway Company to make immediate re-entry and without any further obligations or any liability on the part of Railway Company in respect to any payments, setoffs, counterclaims, recoupment, crossbills or cross demands.

All rights, remedies and elections of Railway Company shall be cumulative.

XERO COPY

XERO COPY

XERO COPY

XERO COPY

In Witness Whereof this instrument is executed this _____ day of _____, 19 ____

ATTEST:

CHICAGO AND NORTH WESTERN RAILWAY COMPANY

Secretary

By _____
VICE PRESIDENT AND CHIEF ENGINEER

Pursuant to authority granted by resolution of the _____
of the Village of Barrington, Illinois, adopted _____.

The undersigned, the Licensee mentioned in the foregoing license, hereby accepts the same subject to the terms and conditions therein stated.

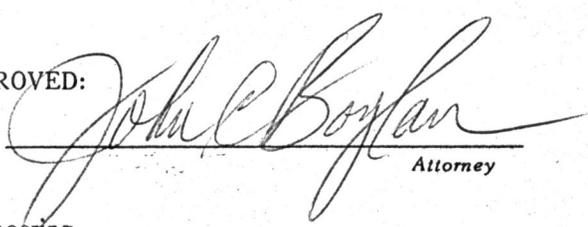
VILLAGE OF BARRINGTON, ILLINOIS

ATTEST: _____

BY: _____ (Seal)
TITLE

VILLAGE CLERK

APPROVED:

Form 
Attorney

Engineering _____
VICE PRESIDENT AND CHIEF ENGINEER

Land Interests _____

Operation _____