

PLAN AND ZONING

REPORT OF THE PROCEEDINGS OF A MEETING
BEFORE THE VILLAGE OF NORTHFIELD
PLAN AND ZONING COMMISSION

COMMISSION

REPORT OF PROCEEDINGS had before the Village of
Northfield Plan and Zoning Commission taken at the Northfield
Village Hall, Board Room, Northfield, Illinois on the 4th day
of October, 2021, at the hour of 7:00 p.m.

MEMBERS PRESENT:

BILL VASELOPULOS, Chairperson
WILLIAM KELLY
JACK BRANNIGAN
TODD BERLINGHOF
JENNIFER SUCHER
DAN deLOYS

MEMBERS ABSENT:

CONNIE BERMAN
STEVEN HIRSCH
KATHY ESTABROOKE

ALSO PRESENT:

STEVE GUTIERREZ, Community Development Director

1 CHAIRPERSON VASELOPULOS: I'd like to call to order
2 the Plan and Zoning Commission. My name is Bill
3 Vaselopulos; I'm the Chairman of the Commission. Before
4 I have the Commissioners introduce themselves; I'd like
5 to introduce a brand new Commissioner. Jack Brannigan,
6 to my far left, is joining us, taking the place of Tom
7 Bolling who we sent off last meeting. In a good way,
8 that sounds terrible, doesn't it?

9 COMMISSIONER BRANNIGAN: Did I miss cake?

10 CHAIRPERSON VASELOPULOS: You did not miss cake,
11 no, but you missed a number of nice accolades and well
12 wishes directed towards him. So, Jack, thank you very
13 much for joining us. We appreciate your commitment, we
14 appreciate your dedication and devotion, and we look
15 forward to working with you.

16 With that, I'd like to have the Commissioners
17 introduce themselves, starting with Bill.

18 COMMISSIONER KELLY: Bill Kelly.

19 COMMISSIONER BERLINGHOF: Todd Berlinghof.

20 COMMISSIONER SUCHER: Jennifer Sucher.

21 COMMISSIONER DELOYS: Dan deLoys.

22 CHAIRPERSON VASELOPULOS: Thank you very much.

23 The purpose of tonight's meeting is to conduct a
24 public hearing and to discuss the requested approval of
25 an Amendment to a Special Use permit located at 275
26 Northfield Road. Petitioner's name is Northfield
27 Storage Properties, LLC.

28 The public hearing format will provide an overview
29 of this proposal and a forum for public comment and
30 input. This Commission is a recommending body only and
31 we will forward our recommendation to the Village
32 President and the Board of Trustees for final
33 determination on whether or not to grant this item
34 before us today. The Board will then consider this item
35 being discussed this evening at the next Board meeting
36 which is scheduled for Tuesday, October 19th, 2021, 7:00
37 p.m., right here in this boardroom.

38 Commission meetings require that all persons
39 wishing to be heard and to enter testimony must be sworn
40 in. This includes all petitioners, individuals with the
41 petitioners, and any interested parties or other
42 property owners. Following the petitioner's
43 presentation and after the Commission has had an
44 opportunity to ask questions and discuss amongst
45 ourselves, then all other interested parties will be
46 given an opportunity to speak.

47 Prior to speaking, we request that all parties step
48 forward to the microphone, be sworn in, and provide
49 their name, address, and interest in this matter for the
50 record. These proceedings are being recorded and that
51 is why we request you to speak at the podium where the
52 microphone is located. Additionally to those remarks,

1 we all are required to wear masks, and with that, I
 2 would suggest that all of us get as close to the
 3 microphone as possible so that we can be clearly heard.
 4 Our first order of business is to pass the minutes
 5 from our last meeting from September 8th, 2021.
 6 Is there a motion?
 7 COMMISSIONER KELLY: I'll make a motion.
 8 CHAIRPERSON VASELOPULOS: Bill makes a motion.
 9 Would anyone like to second it?
 10 COMMISSIONER SUCHER: I'll second it.
 11 CHAIRPERSON VASELOPULOS: Jennifer seconds it.
 12 All those in favor?
 13 (Chorus of ayes.)
 14 CHAIRPERSON VASELOPULOS: All opposed?
 15 (No response.)
 16 CHAIRPERSON VASELOPULOS: The motion passes.
 17 Before the Petitioner steps forward to the
 18 microphone, Steve, do you have any introductory comments
 19 you'd like to make?
 20 MR. GUTIERREZ: Thank you, Chairman Vaselopulos.
 21 The Petitioner, as indicated, is Northfield Storage
 22 Properties, LLC. They are the owner of the self-storage
 23 facility at 275 Northfield Road.
 24 In 2014, the Petitioner was granted a special use
 25 for the self-storage facility in the form of Ordinance
 26 No. 14-1600, which you have a copy of in the packet that
 27 was sent out. That special use, like all of our other
 28 active special uses, has a provision that nullifies the
 29 special use upon a change of ownership. A new owner
 30 then would be required to secure their own special use
 31 approval, going through this process that you just did
 32 with U Dawg U's new ownership. As you recall, we did
 33 that last month. Again, typically that is the procedure
 34 that a change of ownership would go through.
 35 The Petitioner is seeking to amend the language of
 36 Ordinance 14-1600 on their special use so that the
 37 Village Board could approve without further hearing a
 38 change in ownership of the business or property
 39 providing certain criteria are met. I'm going to
 40 summarize these, the Petitioner I'm sure is going to go
 41 into this in a little bit more detail, but those
 42 criteria would be:

- 43 • That the Petitioner currently is in compliance
- 44 with the existing special use requirements, the
- 45 set of conditions that we placed on his special
- 46 use;
- 47 • That the new owners is going to have the
- 48 wherewithal to operate under those special use
- 49 requirements; and finally,
- 50 • That the new owner has accepted in writing all of
- 51 those special use requirements.

52 You have before you, and so in our, as we

1 normally do in our Staff memo, we provide you a draft
2 motion if you're inclined to recommend approval of the
3 petition. Subsequent to some conversations I had, some
4 questions and comments I received today from Ms. Sucher
5 and from Chairman Vaselopoulos, we've amended or revised
6 that draft motion and you have that redline in front of
7 you at the table. I'll just very, very, well, summarize
8 and say that Ms. Sucher has suggested some
9 clarifications, which actually she suggested with the
10 last change of ownership which we failed to carry
11 forward into this conversation with this change, with
12 this amendment, excuse me. So, those are essentially
13 the same provisions that we made the last time with the
14 U Dawg U motion.

15 Then, secondly, we added a second condition on this
16 motion that essentially sets up a sunset provision in
17 that if the Petitioner does not disclose who the new
18 owner is by the Village Board's meeting on December 7th
19 of this year, that the proposed amendment would become
20 null and void effective December 8th the next day. So,
21 those are the changes we made to the revised motion.
22 Again, this is just for your consideration, discussion,
23 et cetera. With that --

24 COMMISSIONER BERLINGHOF: One second. Can you
25 explain to me why they're wanting to do this? Is it
26 because they don't have a buyer yet or they're trying to
27 truncate the timeframe in order to finish it by the end
28 of the year?

29 MR. GUTIERREZ: I'm going to let the Petitioner
30 respond to that, Commissioner Berlinghof, okay?

31 COMMISSIONER BERLINGHOF: Okay.

32 MR. GUTIERREZ: So, again, as I think I noted in
33 the e-mail as I sent in the packet material off to you,
34 unfortunately the Petitioner, Mr. John Mengel is ill and
35 can't be present this evening. We do have him on the
36 conference call here so he can follow along with the
37 proceedings and then answer any questions that his
38 representatives might not be able to answer. But with
39 that, he is represented, excuse me, by his associate
40 Charlie Mengel and his attorney Hal Francke. With that
41 I'm going to hand it over to them after I swear them in.

42 So, if you gentlemen could come to the podium,
43 raise your right hand?

44 (Witnesses sworn.)

45 MR. GUTIERREZ: Thank you. With that, Hal, go
46 ahead.

47 MR. FRANCKE: Thank you. Mr. Chairman,
48 Commissioners, thank you very much. We are here with a
49 somewhat unique request I think because of a unique set
50 of facts. I was contacted not that long ago by Mr.
51 Mengel, I was before this Commission when this use was
52 first approved seven years ago, more or less. I was

1 recently contacted by John Mengel who, as Mr. Gutierrez
2 says, is on the phone with us participating remotely,
3 and he asked about the ability to transfer the special
4 use permit because he was contemplating a sale of the
5 facility before the end of the year. So, I had not
6 recalled and so I said let me look at your special use
7 permit, your ordinance that actually approved the use.
8 I did not remember or realize that the way that
9 Northfield handles their special uses, they have a
10 provision that says point blank the special use dies or
11 terminates if the property is sold.

12 So, we were in a little bit of a predicament
13 because Mr. Mengel at the time was talking to a bunch of
14 people in anticipation of going out to a big convention
15 in Las Vegas where these kinds of transactions are
16 contemplated, and he said, well, I need to go before the
17 Village and get approval for a transfer, but I don't
18 know yet who the buyer is going to be. I explained to
19 him that he could end up having a little problem because
20 from that point forward to the end of the year, the
21 number of meetings that the Commission would be meeting
22 and the Board would be meeting would be very few. So,
23 the possibility of dovetailing his knowledge of who the
24 ultimate successor would be, the buyer would be, with
25 your meeting schedule and then the Board meeting
26 schedule, became quite a challenge. As Commissioner
27 Berlinghof asked, the goal is, yes, to close a deal, the
28 transaction before the end of the year.

29 So, we worked closely with the Village attorney and
30 with Mr. Gutierrez to come up with a framework that I
31 appreciate is different than what the Village normally
32 does. It's not very different from what every other
33 community does, however, on the North Shore. We fully
34 understand the Village's interest in and desire to keep
35 control over who is going to be operating the special
36 use, to take a second look at the special use if there
37 is going to be a change of ownership to get a feel for
38 who the new owner is going to be and a sense of comfort
39 that that owner is experienced and capable of owning and
40 operating a facility the way the ordinance requires and
41 that you would expect.

42 So, we submitted an application not for a new
43 special use because we still don't know who the buyer
44 is, but for an amendment to the special use that would
45 allow for a process. That's what we've brought before
46 you this evening.

47 The facility is a beautiful facility. It's
48 operated, as you saw in your Staff report, it was built
49 per code, per ordinance requirements. There have been
50 no complaints. It's been substantially if not fully
51 occupied throughout its life and has generated
52 significant taxes over the years for local taxing

1 bodies.

2 So, what we've proposed is a process, as I said,
3 that would first give you the opportunity to look at
4 existing conditions and get comfortable with current
5 operations. As you know, that has resulted in a look
6 and the establishment of some recommended conditions to
7 bring the project into compliance with the prior plans.

8 What we've proposed in our language is, as Mr.
9 Gutierrez said, is that we would want to get you
10 comfortable with existing conditions and have you make a
11 recommendation for this language with the understanding
12 that before the Village Board would act on the approval,
13 they would have to know who the buyer is, feel the buyer
14 is creditworthy, and know that the buyer has assumed all
15 of the obligations for operation and management relative
16 to this facility.

17 So, that's what we've proposed in our language.
18 The Village attorney has come back or came back with
19 some changes to that language. So, what happened until
20 today when I know there were some additional changes
21 offered up is that language evolved over the last
22 several weeks to be what it is, or what it was until the
23 recent changes today.

24 So, Charlie Mengel is here as part of the
25 organization. He can answer specific questions. If you
26 want to ask any specific questions about timing, I can
27 tell you that the process is moving along right now, and
28 there was a condition added about making sure that the
29 buyer was known by the December Board meeting. The
30 reality is we believe that the buyer will be known by
31 the October Board meeting. You know, things are now
32 moving but there is a, you know, chance that it won't
33 happen by October, and so, you know, if we don't make it
34 by October, the only other opportunity will be December
35 7th. As I understand it, that would be the last Board
36 meeting of the year.

37 So, I understand the addition of that condition,
38 that number two condition that, you know, the buyer has
39 to be disclosed by December 7th. The only thing I would
40 suggest in terms of, I would request or suggest a
41 modification to that language to say that it would have
42 to be by the Village Board meeting on December 7th, and
43 then I would add 'or by such later date as the Village
44 Board may approve,' just in case it doesn't happen. I
45 think that it would benefit both parties, the Village
46 and the owner, to not have to start this process all
47 over again. The Village Board would still have to
48 approve it.

49 So, you know, I've been in this situation before
50 where you extend the date without having to start the
51 process all over again. So, I would recommend that the
52 language be changed to say by the meeting on December

1 7th or by such later date as the Village Board may
2 approve, and then if not, the proposed amendment would
3 become null and void effective, and then instead of
4 saying December 8th, I would say upon the delivery of a
5 written notice to that effect to the Petitioner. That
6 just creates flexibility for both sides. Otherwise, you
7 know, for this meeting as you know, tonight, all the
8 notices had to be given, notice had to be posted, and if
9 it just absolutely died on December 8th, we'd have to
10 start all over again.

11 So, that's the end of my presentation.

12 CHAIRPERSON VASELOPULOS: Okay, thank you.

13 I do have a couple of questions. I'll let the
14 Commissioners start asking questions and I'll chime in
15 where I think it's appropriate, but I'm going to start
16 the questioning off today myself.

17 Thank you for the information, thanks for the
18 presentation. A couple of, and you addressed these
19 things a little bit, but I'd like to dive into them just
20 a little bit more. You've indicated that they'd like to
21 close by the end of the calendar year.

22 What's so special about that?

23 MR. FRANCKE: Without going into too much details,
24 it's basically just the concern about taxes, what's
25 going to happen in the world of taxes, capital gains
26 taxes.

27 MR. CHARLIE MENGEL: As well as --

28 MR. GUTIERREZ: You'd have to stand up here, sir.

29 CHAIRPERSON VASELOPULOS: Come to the microphone
30 and just identify yourself for the record.

31 MR. CHARLIE MENGEL: Yes, Charlie Mengel.

32 CHAIRPERSON VASELOPULOS: Thank you.

33 MR. CHARLIE MENGEL: In addition to that is just
34 current market conditions, the valuation of the
35 property. It's also being offered as part of a four-
36 property fund, of which the other three timelines line
37 up for the end of the year. So, for many reasons, it's
38 just --

39 CHAIRPERSON VASELOPULOS: You want to bundle it
40 together with other properties?

41 MR. CHARLIE MENGEL: Correct. Yes, correct.

42 CHAIRPERSON VASELOPULOS: If that's the case, why
43 are we meeting today and -- well, let me, before I get
44 into that question, let me just outline for everyone
45 because we have a couple of new Board members here just
46 to go over timing.

47 We meet today, our conclusions will be heard
48 before the October 19th Village Board meeting. We also
49 have a November 1st Plan and Zoning meeting, which then
50 there is no November Village Board meeting, but the next
51 meeting would be December 7th for the Village Board.
52 Because December 7th is early in the month and that's

1 done every year for other reasons, we don't have a Plan
2 and Zoning meeting the first week in December. So, our
3 last meeting after today will be November 1st, and then
4 the subsequent Board meeting this year would be December
5 7th to hear the issues from November 1st.

6 Why are we meeting today? Because you've alluded
7 to the possibility that you may know the owner by
8 October 19th, why aren't we meeting on November 1st with
9 the greater chance of having the owner known to us and
10 then you go before the Village Board on December?

11 MR. FRANCKE: Because, Mr. Chairman, that would
12 obviously work, but if there are any issues that come up
13 and it requires another meeting, then we have a problem.
14 Whether it's another meeting by the Plan and Zoning
15 Commission or another meeting by the Village Board, we
16 have a problem. So, by doing this now and, you know, in
17 terms of ownership and who the ultimate buyer is, you
18 know, other than knowing that they're creditworthy and
19 they're going to assume all the obligations, you know,
20 I'm not sure that it makes, you know, what the
21 difference is. But this gives us two bites of the apple
22 in case there is an issue. I mean, that's the simple
23 answer.

24 CHAIRPERSON VASELOPULOS: Okay.

25 MR. JOHN MENGEL: Hey, Hal, can I just comment?
26 Can people hear me?

27 MR. FRANCKE: Yes.

28 MR. GUTIERREZ: Yes, we can hear you.

29 MR. JOHN MENGEL: You know, Mr. Chairman, thank you
30 for the opportunity to participate remotely. I've
31 tested positive from COVID, so I can't be there; I would
32 be there otherwise.

33 MR. GUTIERREZ: I'm sorry, this is John Mengel.
34 Go ahead, John.

35 MR. JOHN MENGEL: Yes, thank you. One of the
36 sequential issues, as you can understand, we have a bid
37 deadline of this Friday, October 8th, which is -- and
38 then we actually have some final offers kind of penciled
39 in for the following week, what we call the 13th. The
40 issue is that if we are representing the potential sale
41 of the property, as we sit here now, we're unable to
42 represent that we can convey the property and the
43 operation as it stands now. If we're selling business
44 we really can't represent that this business can be
45 purchased.

46 So, if you're an institutional buyer and you need a
47 special use permit, the question is to whether we are in
48 a position to convey.

49 CHAIRPERSON VASELOPULOS: That's correct, and you
50 know, that's well known and one of the issues that are
51 in your special use. So, that concern you have exists
52 for all businesses that have special uses in Northfield.

1 COMMISSIONER DELOYS: And I don't think we've ever-
2 CHAIRPERSON VASELOPULOS: We're not going to, you
3 know, litigate that policy right now, but that's the
4 circumstances here.

5 To point out a couple of other things, the purpose
6 for this is threefold and they've been articulated
7 although I'd like to repeat them. One, we get to review
8 the current circumstances of the special use to make
9 sure that the special use holder is in current
10 compliance with the use as it exists, as it first was
11 written when it was first passed. That's the first one.
12 Secondly, review current conditions to see what if
13 anything has changed, and those two things are being
14 addressed today. They are, except for some minor
15 landscaping issues, you know, we're fine with that.

16 But the third component which is as important as
17 the first two and maybe one can argue a little bit more
18 important, is understanding who the owner is,
19 understanding that they will be able to meet the current
20 criteria and entertain any changes that that owner may
21 have for their business as they take it over. The way
22 this is written, it's not going, they won't be able, at
23 least, well, to be discussed, I guess. As I understand
24 it, they won't be able to change anything. They're
25 going to have to accept their current special use and
26 not change any provisions under that special use if it's
27 going to be passed before the Village Board.

28 That's how I interpret this. The Village Board may
29 interpret that differently and they could do what they
30 want. The reason I'm asking these changes and want to
31 put all these issues out here is because I am concerned
32 of two things.

33 First of all, we're circumventing rules that,
34 looking at the calendar, don't have to be circumvented.
35 I understand your concern about getting two bites at the
36 apple versus narrowing yourself down to just one bite
37 and the potential that that has to be continued and then
38 you miss, we have to go to the first week in January for
39 a continuance meeting of Plan and Zoning. I get that
40 but, you know, that's not how this is supposed to work,
41 so I have concerns there.

42 Secondly, I have concerns of precedent. To the
43 concerns of precedent, I wanted that language in here
44 about December 7th, December 8th. I understand a
45 December meeting could be continued and I would love to,
46 I would be okay with changing December 8th to the date
47 after the December 2021 meeting if December 7th meeting
48 is continued so we don't hamstring you just to December
49 8th. But to allow you to have this open-ended thing
50 into next year when the sole purpose of rushing this now
51 is, as you guys have articulated, tax reasons and
52 bundling it with other properties, I don't see what

1 disadvantage that is to you, and yes, having to go
2 through this again, but next time maybe with the owner
3 on hand and then we follow the normal procedures.

4 So, that's why I'm really in favor of keeping this
5 deadline sometime in December and not letting it go into
6 next year. So, I've spoken a lot. I hope you can
7 respond as you --

8 MR. FRANCKE: Yes, can I respond?

9 CHAIRPERSON VASELOPULOS: Of course you can, of
10 course, and then I'm sure everyone else has a comment.

11 MR. FRANCKE: So, I appreciate, Mr. Chairman, what
12 you said, and let me begin by saying we understand this
13 has been Village policy and we haven't applied to try to
14 change your whole policy, you know, for everybody on a
15 going forward basis. We were trying to deal with a
16 unique set of facts.

17 As John said, you know, if you were the
18 institutional buyer that was considering buying this and
19 you're about to start negotiating a contract, there's a
20 difference between understanding that you're going to
21 have to go get a new special use which means noticing it
22 up, going through a hearing, proving up the standards
23 for a special use, there's a big difference between that
24 and telling a would-be buyer you have to be approved by
25 a Village Board, the special use has been confirmed, it
26 exists, it's been confirmed to be in compliance subject
27 to a couple of minor things, but you need to know that
28 you still need to assume all the obligations and go
29 before the Village, tell them who you are, prove to them
30 you're creditworthy.

31 You know, there's a difference if you're a buyer
32 and saying, well, I'm comfortable with that, I have no
33 problem in saying I'm going to go before the Board and
34 get them comfortable with me as a buyer. That's a big
35 difference between saying I'm going to start all over
36 again and have a public hearing on a special use, prove
37 up the special use standards and then, like I said, what
38 happens if all of a sudden, I don't even know how you
39 prove up the special use standards for a use that's
40 already been existing for seven years but, you know,
41 that's what your process contemplates.

42 We're not trying to change that, you know, for the
43 Village as whole. I know it's been discussed
44 previously. But there is a difference between saying,
45 you know, we want to go before you to get approval as
46 you just set up steps one and two and leave number three
47 for a later date. I just, I think there is a
48 difference.

49 COMMISSIONER DELOYS: I mean, I understand Bill's
50 point, and I agree that the precedent is dangerous.
51 That being said, just so you understand, I've been doing
52 this for 20 years, you've been coming here forever now.

1 We've done tons of ownership changes. I don't think
2 we've ever denied anybody. So, the fact that you're
3 saying that you're concerned that things might not go
4 through, I just don't see that. If they are
5 creditworthy, they're going to get approved, so they can
6 go through the normal process.

7 So, I'm comfortable with the December 8th date. I
8 personally like that. If we go through to January if we
9 have to, fine, but you're losing your tax basis on
10 January whatever anyways. So, your incentive is to get
11 done by December 8th no matter what you do. So, I don't
12 see why we we're not leaving that in.

13 MR. FRANCKE: Let me just say we're fine if you
14 want to leave that at December 8th, that's fine. But
15 again, I believe you, Commissioner, that it's never been
16 a problem and it probably wouldn't be a problem. But I
17 would ask you to think of being that buyer, you know,
18 who is in New York, California or whatever, who hasn't
19 come to Northfield forever, and they just see a piece of
20 paper that says, oh, before you can close on this and
21 own it, you have to go through a special use hearing.

22 COMMISSIONER DELOYS: I'm sure they've been doing
23 business in other places, and I'm sure we're not the
24 first village that's had them come through for a special
25 use. So, if they've been doing that much business, this
26 isn't going to shock them.

27 MR. FRANCKE: Well, actually, respectfully, you're
28 one of the few communities that does that, approaches
29 that issue, addresses that issue that way. Every other,
30 every community I know does what you want to, or wants
31 to accomplish what you want to accomplish, which is to
32 take a look at the buyer, make sure the buyer assumes
33 the obligations, taking a look. Every community on
34 North Shore does that. But I can assure you, and I'm
35 not saying that you should change, I'm just telling you
36 that no other community says that it dies and you've got
37 to start all over again.

38 COMMISSIONER DELOYS: I understand your point. Last
39 month, trust me, when we had the same come up last
40 month, there were questions to that effect on updating
41 this thing.

42 CHAIRPERSON VASELOPULOS: Nothing is dying. We
43 have a January 3rd meeting for Plan and Zoning. Do you
44 have to start over? Yes, but starting over, you've
45 already done everything, nothing will change. The
46 Village has done every vetting thing, that won't change.
47 The only thing that's going to change is looking at the
48 name of the owner.

49 So, I don't think the term starting over is really,
50 should be applied in this case. We would have to meet
51 again, yes, we would. That's not starting over. That's
52 not an official continuance obviously because it would

1 be a brand new meeting, but in terms of the preparation,
2 I don't see, you would be adding to existing
3 preparation, not submitting new and different things
4 that you haven't already submitted.
5 MR. FRANCKE: But I don't think the process we're
6 proposing by way of an amendment to our own special use
7 permit, I don't think it exists in your code.
8 CHAIRPERSON VASELOPULOS: The process, say that
9 again?
10 MR. FRANCKE: The process that we're proposing,
11 which is when there is an anticipated change in use --
12 CHAIRPERSON VASELOPULOS: Yes. Yes.
13 MR. FRANCKE: That you come before the Commission
14 and --
15 CHAIRPERSON VASELOPULOS: Right, it doesn't exist
16 in our code.
17 MR. FRANCKE: It doesn't even exist. You know,
18 your code doesn't lay out the rules for how to get that
19 approval. It just says, your ordinance just says upon a
20 change of ownership, the special use terminates.
21 CHAIRPERSON VASELOPULOS: Right, right.
22 MR. FRANCKE: So, based upon, yes, so it doesn't
23 say how do you prevent that from happening.
24 CHAIRPERSON VASELOPULOS: Correct.
25 COMMISSIONER SUCHER: I have a comment. I wasn't
26 going to raise this, but since you've raised what the
27 ordinance says, I have a question whether or not you
28 think we can actually even do this, because it doesn't
29 provide for an amendment to a special use for a
30 prospective change of ownership. The ordinance provides
31 that this Commission shall find in the affirmative the
32 following, and one of the following is that upon a
33 change in or transfer of ownership, the special use
34 shall lapse. So, if that's the case, we cannot issue an
35 amendment to a special use under one scenario.
36 MR. FRANCKE: That's why, well, I understand that,
37 but that gets a little circular, but that's the problem
38 with your ordinance.
39 COMMISSIONER SUCHER: Right, but I don't think us
40 saying here is an amendment to the special use fixes
41 that problem.
42 MR. FRANCKE: I don't think you can, but I think
43 you can recommend whether you have a problem with it in
44 terms of substance, and I think the Village Board can
45 approve it as a home rule community. They can approve
46 that notwithstanding the circular problem that you're
47 focused on.
48 COMMISSIONER SUCHER: Right, okay.
49 MR. FRANCKE: Which I don't disagree with, it is
50 kind of circular.
51 COMMISSIONER SUCHER: Okay, right.
52 MR. FRANCKE: So, but it doesn't preclude the

1 Village from approving this amendment.
2 COMMISSIONER DELOYS: Steve, what was Buzz's take
3 in that regard?
4 MR. GUTIERREZ: That I think he deferred to the
5 Board on that particular point.
6 COMMISSIONER DELOYS: Okay.
7 MR. FRANCKE: With who?
8 COMMISSIONER SUCHER: Right, he recommended the
9 amendment subject to --
10 MR. GUTIERREZ: To Village Board.
11 COMMISSIONER SUCHER: It's really an amendment to
12 the ordinance for an exception to the ordinance, and an
13 amendment to the special use.
14 MR. FRANCKE: Right, and I understand, you know,
15 the Commissioner was saying that your ordinance, you're
16 supposed to find that there's no change in ownership or
17 something like that so how can you approve an amendment
18 that provides for a potential change in ownership. It's
19 kind of circular, I get that.
20 COMMISSIONER SUCHER: Right, and that's the problem
21 I think a lot of us are struggling with. We don't have
22 the authority to recommend the amendment.
23 MR. FRANCKE: Well, you have the authority to
24 recommend approval of this amendment subject to the
25 Board being comfortable with the approval
26 notwithstanding that provision, which the Board has the
27 authority to do. I think you're right, if you want a
28 home rule community, the answer would be do a text
29 amendment to your ordinance, but you don't have to do
30 that.
31 CHAIRPERSON VASELOPULOS: I had a couple of
32 unrelated questions, not on this specific topic. Does
33 anyone else want to chime in on this? Do you have any
34 questions?
35 COMMISSIONER BRANNIGAN: No.
36 COMMISSIONER BERLINGHOF: I don't have questions,
37 but I think I have been pretty vocal over the years that
38 this whole concept of this special use properties is
39 problematic, and it is, to Mr. Francke's point, it is
40 unusual. Most of the places around this area don't do
41 that. Out west, if you're making a huge investment into
42 a company or into a space, to know that potentially if
43 you want to sell that you can lose that use is a huge
44 risk. I know Hal knew that, whether John knew it or not
45 I don't know, but I don't really have a problem with
46 this.
47 I don't think we'd set a precedent. This is
48 unusual. It's the end of the year and, it's the, I
49 mean, I'm with you on this one, Bill, I mean, if you
50 don't make the December 8th date, you've lost the year
51 end and it kind of doesn't make any sense. Now, having
52 said that, I wouldn't mind adding something in there

1 that says the Village Board, I wouldn't want this to
2 preclude the Village Board from deciding that they are
3 okay with pushing it off into January for their own
4 purposes or whatever it is, but that's what this says
5 now. This precludes them from doing it, I wouldn't mind
6 adding something.

7 But I have a feeling they can do anything they want
8 so, you know, you need, I missed what you said about
9 putting something in writing. Bottom line is that you
10 need to show up at this meeting and do one or two
11 things, get it approved or ask for an extension. I
12 mean, I don't think we should be doing anything in
13 writing other than what we're doing right here.

14 But I'm okay with it. It's extenuating
15 circumstances. I can pretty much guarantee based upon
16 the size and the success of that public storage facility
17 since, John, I gave you a lot of money over a couple of
18 months, it's going to be a big buyer. It's going to be
19 an institutional person or somebody that owns a lot of
20 these things. It's going to be the same operator or
21 it's going to be public, you know, space for somebody
22 else, but it's going to be a big time operator.

23 It's been a successful good business for our
24 community. It's exactly what I hoped for, it's paying a
25 lot of taxes, it's quiet, and it's occupied. So, all
26 those things are really, really good. So, I certainly -

27 MR. FRANCKE: And it doesn't generate a lot of
28 traffic.

29 COMMISSIONER BERLINGHOF: Right, I'm a big
30 proponent of them and I would certainly agree with this.

31 COMMISSIONER KELLY: There's nothing that precludes
32 us from having a meeting in early December before the
33 Board's meeting, is there?

34 CHAIRPERSON VASELOPULOS: Well, the December
35 meeting for the Board is December 7th. That means we
36 obviously would have to meet before that and then give
37 Staff enough time to prepare our materials to go before
38 them. December 7th is a Tuesday, we meet the first
39 Monday of the month which is December 6th.
40 Traditionally, because of the early December meeting,
41 the early Board December meeting, we just don't have
42 meetings in December.

43 COMMISSIONER KELLY: But we've shown some
44 flexibility in the recent months with scheduling
45 meetings on a relatively short notice.

46 Am I correct, Steve?

47 MR. GUTIERREZ: We've done it maybe once since I've
48 been here. I mean, you guys can decide to do that
49 certainly. It's something you certainly have the
50 prerogative to do that. Practically speaking, you'd
51 really be needing to meet at the end of November which
52 is, that's problematic as well, in order to give

1 everybody enough time to prepare the materials for the
2 Village Board. We have to give them minutes of the
3 meeting which I've done, you know, instantaneously. So,
4 we have, so that would propose some logistical problems,
5 but anything is possible.

6 COMMISSIONER KELLY: I mean, I think we don't want
7 to retard economic activity in the Village in any way,
8 shape or form, but I think the question about
9 authorities to do this as well as precedential value are
10 important going down the line.

11 I'm with Bill on the point that, you know, this is
12 a little early in the process, to start asking for
13 exceptions to the rule when there's actually, you know,
14 something could happen before our November meeting. So,
15 I mean, I'm not --

16 COMMISSIONER BERLINGHOF: I think the only thing
17 we're giving up right now is --

18 COMMISSIONER KELLY: Even having done this before,
19 there is now a record that counsel can take to display
20 to potential buyers that, hey, look, this is, you know,
21 you do need to get the special use, but we have a record
22 of this Commission discussing the issue of special use
23 and it's kind of, there is a record that basically,
24 relatively I would say lenient or, you know, we do tend
25 to approve these as ownership changes happen. It is, you
26 know, it gives us a say in the whole process and I'm not
27 sure if we have the authority to do exactly what you're
28 asking us to do.

29 COMMISSIONER DELOYS: Well, a lot of times new
30 owners want to change hours or whatever, you know.

31 COMMISSIONER KELLY: They want to change, yes.

32 COMMISSIONER BERLINGHOF: Well, they'd have to do
33 that in front of the Board anyway. I mean, we are going
34 through the process. They went through in front of us.
35 Steve, they looked at it, they got all of the feedback
36 from all the different departments. They'd come back
37 and suddenly pretty much said you need to fix the plans,
38 and that's it. That's the reason for this; is parking a
39 problem, is traffic a problem, is lighting a problem.

40 I hark back on the time when they wanted the dog-
41 walking service, right? You can see that situation, oh,
42 there's no problem, it's indoors, we're never letting
43 them outdoors, and all of a sudden five years later they
44 want to sell that and every neighbor comes in and says
45 no, no, no, no, no, they've been barking for five years.
46 It would give us an opportunity to get rid of them at
47 that point.

48 In this case, they're doing everything we asked
49 them to do. The only thing we don't know is who the
50 buyer is, so all we're doing is we're putting a little
51 extra burden on the Trustees just to vet. First,
52 they're going to vet it and they're going to say these

1 are X, Y, Z and the Trustees are fine, it's a good
2 buyer, and we're done. So, I don't think it's really --
3 COMMISSIONER KELLY: Are we potentially putting a
4 burden on future owners of buildings that have special
5 uses though, that basically before they can sell their
6 property they're going to have to come before us and get
7 pre-clearance basically?
8 COMMISSIONER DELOYS: That's, oh, pre-clearance?
9 CHAIRPERSON VASELOPULOS: That's the precedent
10 issue that I am concerned about.
11 COMMISSIONER BERLINGHOF: Well, how many times have
12 we been asked to do this?
13 MR. GUTIERREZ: This kind of amendment?
14 COMMISSIONER BERLINGHOF: Yes.
15 MR. GUTIERREZ: This would be the first.
16 COMMISSIONER BERLINGHOF: Okay, so if this starts
17 to happen a lot, then I would say okay, this is going to
18 be an issue. But no one has done it so far, and if it
19 does happen a lot, then I think we need to look at our
20 code.
21 COMMISSIONER DELOYS: Right.
22 COMMISSIONER BERLINGHOF: And see if there's
23 another way to deal with it. So, we can't, this is a
24 real issue. I mean, I'm not, he's not making this up,
25 because he's right. They don't know Northfield has
26 approved every single mom and pop and all other things
27 over the years. This guy is from New York, that's a
28 hedge fund and they're investing in, you know, in this
29 kind of project. But when they see this thing, oh, it
30 may not be approved, oh, we are not going to invest \$100
31 million before the deal is approved.
32 So, it's unusual circumstances. I think we're
33 being flexible. The whole concept behind this was to
34 give us an opportunity to kind of look at this again,
35 get another bite at the apple, make sure they're doing
36 the right thing, being good citizens, and these guys
37 are.
38 MR. FRANCKE: If I could just respond to a comment
39 that I think two of you made? If the buyer came in and
40 they wanted to change anything, different hours or
41 signage, they'd still have to come back to the Village.
42 COMMISSIONER DELOYS: Right.
43 MR. FRANCKE: This isn't pre-approving any changes.
44 COMMISSIONER DELOYS: Right, right. Understood.
45 CHAIRPERSON VASELOPULOS: So, I do have a question
46 along those lines. If come December, or where are we?
47 If come October, you've got a name and all that and
48 you're submitting, and they want to change hours, the
49 Village, the Board can change those hours. They don't
50 have to come back to us. I'm asking that as more of a,
51 making that as a half statement, half question.
52 MR. GUTIERREZ: So, our ordinance, the special

1 uses, last condition that we outline in the special use
2 is how to deal with changes and then we categorize
3 those, as well as the Zoning Ordinance also outlines
4 those same, essentially those same types of changes and
5 who has the authority to approve them. The Village
6 Board really does have carte blanche if they deemed it
7 "appropriate."

8 CHAIRPERSON VASELOPULOS: Yes, they could jump
9 that. So, I'm just personally still torn over this to
10 tell you the truth. I'm going to skip topics a little
11 bit and jump to something else that struck me. I know
12 this is a legal issue, and there are a few attorneys in
13 the room and they can discuss this.

14 It says that the Petitioner shall, if the
15 Petitioner aggregately owns less than 51 percent. So,
16 if it's 50-50, you have to come before us and get this
17 changed, 50 percent-50 percent, right? Should that not
18 read less than 50 percent?

19 MR. FRANCKE: This whole provision is your
20 provision, so however you want to write it is okay with
21 me.

22 CHAIRPERSON VASELOPULOS: I thought that was
23 submitted to us by the Petitioner, Steve.

24 MR. FRANCKE: That's the existing language in your
25 ordinance.

26 CHAIRPERSON VASELOPULOS: That's the existing
27 language? Thank you for that clarification.

28 MR. FRANCKE: Well, the concept, that sentence is
29 in the ordinance right now.

30 COMMISSIONER DELOYS: It is in the ordinance, I
31 have it right in front of me.

32 MR. FRANCKE: Yes. In the course of this process,
33 the Village attorney modified it. So, the revisions
34 reflect --

35 CHAIRPERSON VASELOPULOS: I read it a couple of
36 weeks ago, Dan, but I forgot. What does the original
37 ordinance say? Does it say 51 percent?

38 COMMISSIONER DELOYS: The Petitioner owns 100
39 percent of the stocks or in aggregate of less than 51
40 percent of the entities, the 51 percent minimum
41 ownership requirement shall apply regardless of whether
42 the practice is owned by a corporation, et cetera.

43 COMMISSIONER BERLINGHOF: In the majority, that's
44 all it's asking.

45 COMMISSIONER DELOYS: Yes.

46 CHAIRPERSON VASELOPULOS: Yes, well, 50.5 is less
47 than 51 percent, that's still a majority.

48 COMMISSIONER DELOYS: Right, I agree that 51 is --

49 CHAIRPERSON VASELOPULOS: 50-50 is not a majority.
50 I know these are very unrealistic issues probably, but --

51 COMMISSIONER BERLINGHOF: Is that in our code now?

52 COMMISSIONER DELOYS: Yes.

1 COMMISSIONER SUCHER: Well, the actual code says
2 for the purposes of this section, change in ownership
3 shall occur when the person to whom the special use was
4 granted holds less than 51 percent ownership interest in
5 the use. So, that's the ordinance.

6 CHAIRPERSON VASELOPULOS: Okay, that answers that.

7 COMMISSIONER SUCHER: And I think we've modified
8 that language for special use permits.

9 CHAIRPERSON VASELOPULOS: Yes, okay.

10 MR. GUTIERREZ: And that's consistent with --

11 CHAIRPERSON VASELOPULOS: Yes, okay. Thank you for
12 that clarification.

13 COMMISSIONER SUCHER: Okay, and just to add to
14 that, we modified the language further here in the U
15 Dawg U because we picked up the change of ownership not
16 only of the subject property but the change of ownership
17 of the Petitioner, so we wanted to clarify that if the
18 Petitioner was selling the entity that owns the subject
19 property, that the owner should, or that entity changes
20 by, if the current owner owns less than 51 percent,
21 that's also change of ownership. So, there's two change
22 of ownerships there.

23 CHAIRPERSON VASELOPULOS: And in this circumstance,
24 as I understand it, the Petitioner is the owner of the
25 property and the owner of the business, and the name on
26 the door is the management company of that business.

27 MR. FRANCKE: Correct.

28 CHAIRPERSON VASELOPULOS: That the owner of the
29 property owns both the property and the business,
30 correct?

31 MR. FRANCKE: Correct.

32 COMMISSIONER BERLINGHOF: And that's true of a lot
33 of public storage facilities, just FYI.

34 CHAIRPERSON VASELOPULOS: It doesn't matter, I just
35 want it for clarification so everyone understands,
36 that's all.

37 COMMISSIONER BERLINGHOF: Yes, sure.

38 CHAIRPERSON VASELOPULOS: Before we discuss amongst
39 ourselves, first of all, do any other Commissioners have
40 any questions of the Petitioner?

41 (No response.)

42 CHAIRPERSON VASELOPULOS: Okay.

43 MR. FRANCKE: Thank you.

44 CHAIRPERSON VASELOPULOS: Anyone from the audience
45 have any questions of the Petitioner? It's something I
46 have to ask.

47 (No response.)

48 CHAIRPERSON VASELOPULOS: Okay, there is no one in
49 the audience other than the Petitioner and our Trustee
50 who is our liaison.

51 Okay, so Commissioners, what we have before us, we
52 discussed a few different things. One of them is the

1 keeping of the date here of December 8th or some date in
2 December, if we wanted to keep that or not. The
3 Petitioner has offered alternative language, but they
4 did indicate they probably wouldn't, if we kept it as
5 is, there wouldn't be an objection to that.
6 Do we need to discuss that any further?
7 COMMISSIONER BERLINGHOF: I think I've made my
8 point. I think it's a minor thing that we're doing. I
9 think it's showing a little flexibility as a government
10 body. It's a good tenant. I think we all know that the
11 outcome will be the same in the end pretty much, and if
12 it's going to help him, I think it's worth doing. I
13 wouldn't change the language at all is my final point.
14 CHAIRPERSON VASELOPULOS: And keeping the date?
15 COMMISSIONER BERLINGHOF: Just keeping the date.
16 They're going to show up on the 7th and they're either
17 going to do it or they're going to ask for an extension
18 there. I think that's, you know, because the Trustees
19 can do whatever they want.
20 COMMISSIONER DELOYS: I'm comfortable with that, as
21 Todd has said.
22 COMMISSIONER BRANNIGAN: I'd just keep the date.
23 COMMISSIONER SUCHER: Yes.
24 COMMISSIONER KELLY: Keep the date.
25 COMMISSIONER BERLINGHOF: Okay, would you like me
26 to make a motion?
27 CHAIRPERSON VASELOPULOS: Any further comments from
28 the Commissioners?
29 (No response.)
30 CHAIRPERSON VASELOPULOS: Sure, thank you, Todd.
31 COMMISSIONER BERLINGHOF: I would like to make a
32 motion to recommend to the Village Board the adoption of
33 the amended and restated, revised amended and restated
34 special use ordinance for the subject property which
35 modifies the first sentence of Section 1 of Ordinance
36 14-1600 to read as follows, subject to one and, well,
37 let me refer to that, how should I do this? This is a
38 little bit different. Is there a different motion in
39 the --
40 COMMISSIONER DELOYS: Yes.
41 COMMISSIONER BERLINGHOF: This one or --
42 COMMISSIONER DELOYS: The packet had a different
43 motion --
44 COMMISSIONER BERLINGHOF: I didn't really need it.
45 CHAIRPERSON VASELOPULOS: -- because you have this
46 one here.
47 COMMISSIONER BERLINGHOF: Okay, so the best way to
48 do for this purpose is to make the motion with the
49 changes --
50 MR. GUTIERREZ: As revised.
51 COMMISSIONER BERLINGHOF: As revised in the
52 changes, okay.

1 MR. GUTIERREZ: At this meeting.

2 COMMISSIONER BERLINGHOF: And then with the
3 additional recommendation, okay.

4 So, let me start over again.

5 A motion to recommend to the Village Board: the
6 adoption of an amended and restated special use
7 ordinance for the Subject Property which modifies the
8 first sentence of Section 1 of Ordinance 14-1600 to read
9 as follows:

10 1. Subject to the provisions set forth in this
11 ordinance, the Special Use shall be personal and limited
12 to the Petitioner, Northfield Storage Properties, LLC,
13 pursuant to Article XVI, Section 4(I) of the Zoning
14 Ordinance of the Village of Northfield. Upon a change in
15 or transfer of ownership of either the Petitioner or the
16 Subject Property, the Special Use shall lapse unless,
17 prior to any such change or transfer, the Village Board
18 consents to such change or transfer, by motion or
19 adoption of a resolution, after determining that: (a)
20 the Petitioner is then in compliance with all conditions
21 of the Special Use; (b) the entity that is to become the
22 new owner is a creditworthy entity with the capability
23 of owning and operating the Special Use in accordance
24 with its approved conditions; and (c) such entity, by
25 written instrument, has agreed to accept all of such
26 conditions and assume all of the Petitioner's
27 obligations related to the Special Use upon its
28 acquisition of Petitioner or the Subject Property.
29 Change in ownership of the Petitioner shall occur when
30 any corporation, partnership or other entity which
31 currently owns 100% of the total stock, interests and/or
32 assets of Petitioner, shall in the aggregate own less
33 than 51% of Petitioner. A business entity in which the
34 current Petitioner holds less than 100% of the stock,
35 member shares and/or assets shall not be counted toward
36 the 51% minimum. The 51% minimum ownership requirements
37 shall apply regardless of whether Petitioner is owned by
38 a corporation, partnership or other entity. Furthermore,
39 the Special Use shall only be applicable to the Subject
40 Property.

41 This recommendation is subject to the following
42 conditions:

43 1. The Petitioner shall restore the plantings to be in
44 substantial conformance with the originally approved
45 landscape plan and the restoration shall be subject to
46 staff approval.

47 2. If the Petitioner does not disclose the identity of
48 the contract buyer of the subject property by the start
49 of the Village Board meeting on December 7, 2021, the
50 proposed amendment shall become null and void effective
51 December 8, 2021.

52 CHAIRPERSON VASELOPULOS: Is there a second?

1 COMMISSIONER DELOYS: Second.
2 CHAIRPERSON VASELOPULOS: All those in favor?
3 (Chorus of ayes.)
4 CHAIRPERSON VASELOPULOS: All those opposed?
5 (No response.)
6 CHAIRPERSON VASELOPULOS: The motion carries
7 unanimously. Thank you very much.
8 MR. FRANCKE: Thank you.
9 CHAIRPERSON VASELOPULOS: Good luck with you.
10 COMMISSIONER BERLINGHOF: Motion to close and to
11 adjourn.
12 CHAIRPERSON VASELOPULOS: Any further questions or
13 comments?
14 COMMISSIONER DELOYS: Any other business? Any
15 business for us, Steve?
16 MR. GUTIERREZ: Potentially, you may have a medical
17 office special use at the November meeting. I will know
18 that tomorrow.
19 COMMISSIONER BERLINGHOF: Is that, what's the size
20 of it?
21 MR. JOHN MENGEL: Commissioner, Staff and the
22 Commission, thank you very much, appreciate it.
23 CHAIRPERSON VASELOPULOS: Thank you for joining us,
24 and hope you feel better.
25 COMMISSIONER BERLINGHOF: Thank you. Good luck.
26 MR. GUTIERREZ: Okay, John.
27 MR. JOHN MENGEL: And God speed, right, thank you.
28 Good night.
29 MR. GUTIERREZ: Bye-bye. I'm sorry?
30 COMMISSIONER BERLINGHOF: The size? Is medical
31 still a special use unless it's over a certain size?
32 MR. GUTIERREZ: It's on a first, it's over at 1622
33 Willow on the first level, and any medical office use in
34 the Village Center District on a first floor is subject
35 to a special use.
36 COMMISSIONER BERLINGHOF: Oh, it is, I didn't know
37 that. I thought we changed that.
38 MR. GUTIERREZ: That was carved out. I think the
39 concern or the intent there was to try not to displace
40 retail stores.
41 COMMISSIONER BERLINGHOF: Right, on the front space.
42 MR. GUTIERREZ: Yes.
43 COMMISSIONER BERLINGHOF: Okay, so all right.
44 CHAIRPERSON VASELOPULOS: Can I get a motion
45 to dismiss?
46 COMMISSIONER BERLINGHOF: Motion to adjourn.
47 CHAIRPERSON VASELOPULOS: Second?
48 COMMISSIONER KELLY: Second.
49 CHAIRPERSON VASELOPULOS: All those in favor?
50 (Chorus of ayes.)
51 CHAIRPERSON VASELOPULOS: All opposed?
52 (No response.)

1 CHAIRPERSON VASELOPULOS: The motion carries.
2 Thank you and good night, everybody.
3 (Whereupon, at 7:50 p.m., the above
4 meeting was concluded.)
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6
7 APPROVED 11/1/21
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