

As more fully set forth in the High School District's Motion to Allow Testimony of Reasonable Probability of Rezoning, a copy of which is attached hereto as Exhibit A and the points and authorities of which are herein incorporated by reference, three alternatives are open to this Court:

(1) Because all planning and appraisal witnesses opine that the highest and best use of the subject property is something other than the existing one-acre minimum lot size R-1 residential zoning, and because each appraiser will testify that some zoning action by the Village of Woodridge would occur to develop the property at its highest and best use, the fact that some change in the existing zoning restrictions is reasonably probable is undisputed. The Court should therefore allow the High School District to present its testimony of highest and best use, predicated upon the reasonable probability of rezoning, without need of any further hearing.

(2) Because there is an adequate foundation presented in the reports and deposition testimony of the Village and the High School District's witnesses on the topic of reasonable probability of rezoning, the Court should allow the High School District to present its testimony of highest and best use, predicated upon the reasonable probability of rezoning, without need of any further hearing. *See, e.g., Forest Preserve District of Du Page County v. Brookwood Land Venture*, 199 Ill. App. 3d 973, 978, 557 N.E.2d 980, 985 (2nd Dist. 1990) (offer of proof deemed sufficient).

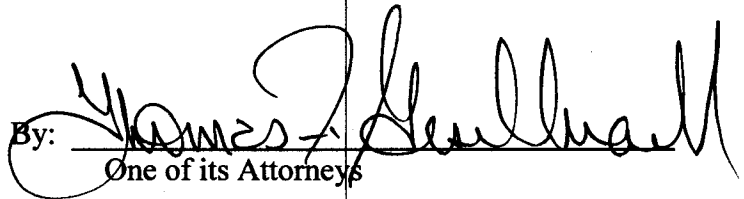
(3) Finally, in the event that this Court needs to hear testimony from the individual expert witnesses to rule on the adequacy of the foundation for the testimony of reasonable probability, the High School District concurs with the Village's request that the Court hold an *in camera*, preliminary hearing on reasonable probability outside the presence of the jury. *See, e.g.,*

Illinois State Toll Highway Authority v. Heritage Standard Bank, 250 Ill. App. 3d 665, 681, 619 N.E.2d 1321, 1331 (2nd Dist. 1993).

WHEREFORE, defendant Community High School District 99 respectfully requests the Court to enter an order allowing the testimony of witnesses that there is a reasonable probability of rezoning, or, in the alternative, to hold a hearing *in camera* to establish that there is sufficient foundation to allow the witnesses to testify to a reasonable probability of rezoning.

COMMUNITY HIGH SCHOOL DISTRICT 99

Date: February 28, 2008

By: 
One of its Attorneys

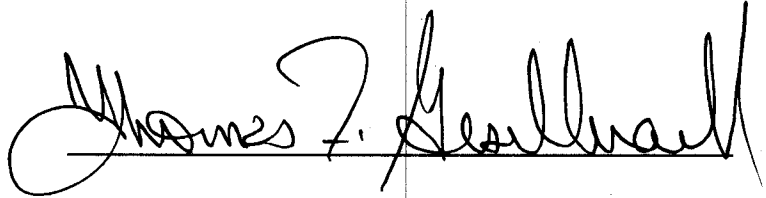
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CERTIFICATE OF SERVICE

I, Thomas F. Geselbracht, an attorney, hereby certify that I caused the foregoing RESPONSE TO VILLAGE MOTION *IN LIMINE* NO. 8 FOR *IN CAMERA* HEARING ON REASONABLE PROBABILITY OF REZONING, to be served upon:

Phillip A. Luetkehans
Robert W. Funk
Schirott & Luetkehans, P.C.
105 East Irving Park Road
Itasca, Illinois 60143

by e-mail delivery to rfunk@sl-atty.com and by depositing true and correct copies so addressed in the United States postal drop located at 203 North LaSalle Street, Chicago, Illinois, before 5:00 p.m., this 28th day of February, 2008, with proper postage prepaid.

A handwritten signature in black ink, appearing to read "Thomas F. Geselbracht", is written over a horizontal line. The signature is cursive and somewhat stylized.