



LAKE COUNTY FOREST PRESERVES
www.LCFPD.org

Preservation, Restoration, Education and Recreation

DATE: June 25, 2018

MEMO TO: Carol Calabresa, Chair
Planning Committee

Agenda Item# 9.6

FROM: Alex Ty Kovach
Executive Director

RECOMMENDATION: Recommend approval of a Resolution approving an Environmental Land Use Control (ELUC) for a portion of Cahokia Flatwoods Forest Preserve.

STRATEGIC DIRECTION SUPPORTED: Leadership

FINANCIAL DATA: None.

BACKGROUND: Riverwoods Land Venture, LLC (Owner) owns land (Property) near the southeast corner of Milwaukee Avenue and Deerfield Road and adjacent to Cahokia Flatwoods Forest Preserve. The Property includes 37 acres, nine of which are located within the Village of Riverwoods and the remainder of which is within unincorporated Vernon Township. An old, closed landfill is located within both the Property and a portion of Cahokia Flatwoods.

The Owner is trying to develop the Property and, in furtherance of those efforts, is trying to obtain a No Further Remediation (NFR) letter from the Illinois Environmental Protection Agency (IEPA). To obtain the NFR letter, Owner must first obtain an ELUC from the District that would be recorded against Cahokia Flatwoods and would prevent groundwater from an approximately 18.4-acre portion of Cahokia Flatwoods from being used as a potable water source.

Staff has been advised that the Property owner and Riverwoods are negotiating to annex the remaining 28 acres of the Property into Riverwoods for development purposes on the entire Property. The Villages of Riverwoods and Buffalo Grove have both approved ordinances prohibiting the potable use of groundwater in areas around the old landfill. Both ordinances recite the villages' desire to protect public health "while facilitating the redevelopment and productive use of properties that are the source of said chemical constituents." In addition, staff has spoken to the mayor of Riverwoods, who spoke in favor of the redevelopment of the property. If Owner can obtain the NFR letter, it will be positioned to repurpose an old landfill and help in the economic development of the area.

This request differs from previous requests that the District has received to execute ELUC's. First, both Riverwoods (which includes a portion of, and plans to annex the remainder of, the

Property) and Buffalo Grove (a neighboring municipality) have already taken formal action to promote the redevelopment of the property. Second, the District property that would be burdened with the ELUC was also part of the closed landfill and, as such, would almost certainly never be appropriate as a source for potable groundwater. Also, previous requests for ELUC's have come from adjacent owners that have contaminated, or possibly contaminated, District property, but in this case, any contamination that exists pre-dates the District's acquisition of Cahokia Flatwoods.

On April 30, 2018, the Planning Committee gave staff policy direction to negotiate an appropriate ELUC with the Owner. The attached resolution would approve the ELUC that staff has negotiated.

REVIEW BY OTHERS: Land Development Manager, Corporate Counsel.

STATE OF ILLINOIS)
) SS
COUNTY OF LAKE)

**BOARD OF COMMISSIONERS
LAKE COUNTY FOREST PRESERVE DISTRICT
REGULAR JULY MEETING
JULY 11, 2018**

MADAM PRESIDENT AND MEMBERS OF THE BOARD OF COMMISSIONERS:

Your **PLANNING COMMITTEE** presents herewith “A Resolution Approving an Environmental Land Use Control for a portion of Cahokia Flatwoods Forest Preserve,” and requests its approval.

PLANNING COMMITTEE:

Date: 6-25-2018 Roll Call Vote: Ayes: ___ Nays: ___
 Voice Vote Majority Ayes; Nays: 0

**LAKE COUNTY FOREST PRESERVE DISTRICT
LAKE COUNTY, ILLINOIS**

**A RESOLUTION APPROVING AN ENVIRONMENTAL LAND USE CONTROL
FOR A PORTION OF CAHOKIA FLATWOODS FOREST PRESERVE**

WHEREAS, the Lake County Forest Preserve District (the “District”) owns property that is commonly known as Cahokia Flatwoods Forest Preserve (the “Preserve”); and

WHEREAS, Riverwoods Land Venture, LLC (Owner) owns land adjacent to the Preserve (the “Development Property”); and

WHEREAS, a closed landfill is located within both the Development Property and a portion of Cahokia Flatwoods; and

WHEREAS, Owner desires to annex the remainder of its Property to, and develop the Property within, the Village of Riverwoods and, in furtherance thereof, is trying to obtain a “No Further Remediation” (“NFR”) letter from the Illinois Environmental Protection Agency; and

WHEREAS, to obtain the NFR letter, Owner has requested that the District approve and record against the portion of Cahokia Flatwoods (the “ELUC Parcel”) that includes a portion of the closed landfill an “Environmental Land Use Control” (an “ELUC”) that would prevent groundwater from the ELUC Parcel from being used as potable water; and

WHEREAS, the Board of Commissioners finds that the Villages of Riverwoods and Buffalo Grove have both approved ordinances prohibiting the potable use of groundwater in areas around the closed landfill, and both ordinances recite the villages’ desire to protect public health “while facilitating the redevelopment and productive use of properties that are the source of said chemical constituents”; and

WHEREAS, the Board of Commissioners finds that the ELUC Parcel was part of the closed landfill and would not be appropriate as a source for potable groundwater and, therefore, recording an ELUC against the ELUC Parcel does not substantially diminish any District property right; and

WHEREAS, the District is authorized to approve an ELUC, and record an ELUC against its property, pursuant to Section 58.17 of the Illinois Environmental Protection Act, 415 ILCS 5/58.17, and Section 742.1010 of Part 35 of the Illinois Administrative Code (“Tiered Approach to Corrective Action Objectives”), 35 Ill. Adm. Code §742.1010; and

WHEREAS, based on the findings above, it is in the District’s best interests to approve, execute, and record an ELUC in substantially the form attached to this Resolution (the “Approved ELUC”);

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Lake County Forest Preserve District, Lake County, Illinois THAT:

Section 1. Recitals. The recitals set forth above are incorporated as a part of this Resolution by this reference.

Section 2. Approval of Approved ELUC. The Approved ELUC is hereby approved in substantially the form attached hereto. The President, Executive Director and Secretary are authorized and directed to execute and attest to, on behalf of the District, the Approved ELUC in substantially the form attached hereto.

Section 3. Effective Date. This Resolution shall be in full force and effect from and after its passage and approval in the manner provided by law.

PASSED this ____ day of _____, 2018

AYES:

NAYS:

APPROVED this ____ day of _____, 2018

Ann B. Maine, President
Lake County Forest Preserve District

ATTEST:

Julie Gragnani, Secretary
Lake County Forest Preserve District

Exhibit No. _____

PREPARED BY:

Name: Steven Gobelman
Andrews Engineering, Inc.

Address: 3300 Ginger Creek Drive
Springfield, IL 62711

RETURN TO:

Name: Steven Gobelman
Andrews Engineering, Inc.

Address: 3300 Ginger Creek Drive
Springfield, IL 62711

THE ABOVE SPACE FOR RECORDER'S OFFICE

Environmental Land Use Control

THIS ENVIRONMENTAL LAND USE CONTROL ("ELUC"), is made this ___ day of _____, 2018, by Lake County Forest Preserve District ("Property Owner") as owner of the real property located at the common address 14445 West Deerfield Road, Deerfield, Illinois ("Property", which is more specifically described below).

WHEREAS, 415 ILCS 5/58.17 and 35 Ill. Adm. Code 742 provide for the use of an ELUC as an institutional control in order to impose land use limitations or requirements related to environmental contamination so that persons conducting remediation can obtain a No Further Remediation determination from the Illinois Environmental Protection Agency ("IEPA"). The reason for an ELUC is to ensure protection of human health and the environment. The limitations and requirements contained herein are necessary in order to protect against exposure to contaminated groundwater that may be present on the property. Under 35 Ill. Adm. Code 742, the use of risk-based, site-specific remediation objectives may require the use of an ELUC on real property, and the ELUC may apply to certain physical features (e.g., engineered barriers, monitoring wells, caps, etc.).

WHEREAS, Riverwood Land Venture LLC intends to request risk-based, site specific soil and groundwater remediation objectives from IEPA under 35 Ill. Adm. Code 742 to obtain risk-based closure of the site, identified by Bureau of Land LPC Number 0971455007, utilizing an ELUC.

NOW, THEREFORE, the recitals set forth above are incorporated by reference as if fully set forth herein, and the Property Owner agrees as follows:

Section One. Property Owner does hereby establish an ELUC on the real estate, situated in the County of Lake, State of Illinois and further described in Exhibit A attached hereto and incorporated herein by reference (the "Property").

Attached as Exhibit B are site maps that show the legal boundary of the Property, any physical features to which the ELUC applies, the horizontal and vertical extent of the contaminants of concern above the applicable remediation objectives for soil or groundwater or both, and the nature, location of the source, and direction of movement of the contaminants of concern, as required under 35 Ill. Adm. Code 742.

Section Two. Property Owner represents and warrants that it is the current owner of the Property and has the authority to record this ELUC on the chain of title for the Property with the Office of the Recorder or Registrar of Titles in Lake County, Illinois.

Section Three. The Property Owner hereby agrees, for itself, and its heirs, grantees, successors, assigns, transferees and any other owner, occupant, lessee, possessor or user of the Property or the holder of any portion thereof or interest therein, that the groundwater under the Property shall not be used as a potable supply of water.

Section Four. This ELUC is binding on the Property Owner, its heirs, grantees, successors, assigns, transferees and any other owner, occupant, lessee, possessor or user of the Property or the holder of any portion thereof or interest therein. This ELUC shall apply in perpetuity against the Property and shall not be released until the IEPA determines there is no longer a need for this ELUC as an institutional control; until the IEPA, upon written request, issues to the site that received the no further remediation determination a new no further remediation determination approving modification or removal of the limitation(s) or requirement(s); the new no further remediation determination is filed on the chain of title of the site subject to the no further remediation determination; and until a release or modification of the land use limitation or requirement is filed on the chain of title for the Property.

Section Five. Information regarding the remediation performed on the Property may be obtained from the IEPA through a request under the Freedom of Information Act (5 ILCS 140) and rules promulgated thereunder by providing the IEPA with the 10-digit LPC listed above.

Section Six. The effective date of this ELUC shall be the date that it is officially recorded in the chain of title for the Property to which the ELUC applies.

WITNESS the following signatures:

Property Owner(s)

By: _____

Its: _____

Date: _____

STATE OF ILLINOIS)
) SS:
COUNTY OF LAKE)

I, _____ the undersigned, a Notary Public for said County and State, DO HEREBY CERTIFY, that _____ and _____ personally known to me to be the Property Owner(s) of _____, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that in said capacities they signed and delivered the said instrument as their free and voluntary act for the uses and purposes therein set forth.

Given under my hand and official seal, this ___ day of _____, 2018.

Notary Public

**PIN NO. 15-35-200-014-0000
(Parcel Index Number)**

Exhibit A

The subject property is located in Lake County, State of Illinois, is commonly known as a portion of Cahokia Flatwoods Forest Preserve and is more particularly described as:

**LIST THE COMMON ADDRESS;
14445 West Deerfield Road, Deerfield, Illinois**

**LEGAL DESCRIPTION; AND REAL ESTATE TAX INDEX OR PARCEL #
(PURSUANT TO SECTION 742. 1010(D)(2))**

PIN 15-35-200-014-0000

ALL THAT PART OF THE FOLLOWING DESCRIBED PROPERTY LYING EAST OF THE WEST LINE OF THE NORTH EAST QUARTER OF SECTION 35, TOWNSHIP 43 NORTH, RANGE 11, EAST OF THE 3RD PRINCIPLE MERIDIAN IN LAKE COUNTY, ILLINOIS: THAT PART OF THE NORTH HALF OF SECTION 35, TOWNSHIP 43 NORTH, RANGE 11, EAST OF THE 3RD PRINCIPLE MERIDIAN, BOUNDED AND DESCRIBED AS FOLLOWS:








BEGINNING AT THE INTERSECTION OF THE CENTER LINE OF MILWAUKEE AVENUE WITH A LINE WHICH BEARS SOUTH 89 DEGREES, 30 MINUTES EAST FROM A POINT ON THE WEST LINE OF SAID SECTION 35, SAID POINT BEING 800.76 FEET SOUTH OF THE NORTH WEST CORNER OF SAID SECTION; THENCE SOUTH 89 DEGREES, 30 MINUTES EAST TO THE CENTER LINE OF THE DES PLAINES RIVER, THENCE SOUTHERLY ON THE CENTER LINE OF SAID RIVER TO THE INTERSECTION OF SAID CENTER LINE WITH A LINE WHICH BEARS NORTH 89 DEGREES, 21 MINUTES EAST FROM A POINT ON THE WEST LINE OF THE NORTH EAST QUARTER OF SECTION 35, SAID POINT BEING 1761.35 FEET SOUTH OF THE NORTH WEST CORNER OF SAID NORTH EAST QUARTER SECTION; THENCE SOUTH 89 DEGREES, 21 MINUTES WEST TO THE CENTER LINE OF MILWAUKEE AVENUE; THENCE NORTH WESTERLY ON THE CENTER LINE OF MILWAUKEE AVENUE TO THE PLACE OF BEGINNING, IN LAKE COUNTY, ILLINOIS.

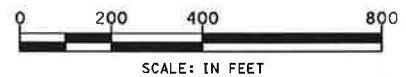
PIN NO. 15-35-200-014-0000

Exhibit B



LEGEND

-  SITE LOCATION
-  APPROXIMATE PARCEL BOUNDARY
-  DES PLAINES RIVER
-  VILLAGE OF RIVERWOODS GROUNDWATER ORDINATE
-  LAKE COUNTY FOREST PRESERVE DISTRICT ELUC
-  GROUNDWATER FLOW DIRECTION
-  COMPLIANCE DISTANCE BASED ON TACO 26
(COMPLIANCE EXTENDS DOWNGRADIENT TO DES PLAINES RIVER AND APTAKISIC CREEK)



NOTE:

PARCEL DATA DERIVED FROM LAKE COUNTY GEOSPATIAL DATA WEBSITE.



ANDREWS ENGINEERING, INC.
 3300 GINGER CREEK DRIVE
 SPRINGFIELD, ILLINOIS 62711-7233
 PH (217) 787-2334 FAX (217) 787-9495
 PONTIAC, IL • LOMBARD, IL • INDIANAPOLIS, IN • WARRENTON, MD
 PROFESSIONAL DESIGN ENGINEERING AND LAND SURVEYING FIRM #184-001541

APPROVED BY: SLG DESIGNED BY: SLG DRAWN BY: MPN

LAKE COUNTY FOREST PRESERVE
 DISTRICT ELUC AREA

PREPARED FOR
 FORMER HOFFELDER LANDFILL
 RIVERWOODS, LAKE COUNTY, ILLINOIS

DATE:
 DECEMBER 2017
 PROJECT ID:
 160022/0009
 SHEET NUMBER:

EXHIBIT B
ELUC