

KANE COUNTY DEVELOPMENT DEPARTMENT  
 Zoning Division, Kane County Government Center  
 719 Batavia Avenue  
 Geneva, Illinois 60134  
 Office (630) 232-3492 Fax: (630) 232-3411



## ZONING MAP AMENDMENT APPLICATION

**Instructions:**

To request a map amendment (rezoning) for a property, complete this application and submit it with all required attachments to the Subdivision and Zoning Division.

When the application is complete, we will begin the review process.

**The information you provide must be complete and accurate. If you have a question please call the subdivision and zoning division, and we will be happy to assist you.**

<b>1. Property Information:</b>	<b>Parcel Number (s):</b> 03-30-300-008
	<b>Street Address (or common location if no address is assigned):</b> 37W950 Mason Road, Elgin, IL (NE Corner of Mason Road and Tyrell <i>Andy call 773-617-0396</i>

<b>2. Applicant Information:</b>	<b>Name</b> Intra Soccer, LLC	<b>Phone</b> 773-784-7900
	<b>Address</b> c/o Andy Scholnik 2035 W. Giddings, Chicago, IL 60625	<b>Fax</b> 773-784-3141
		<b>Email</b> andys@anscore.net

<b>3. Owner of record information:</b>	<b>Name</b> International Sports, Inc.	<b>Phone</b> 847-931-9548
	<b>Address</b> 359 S. Randall Rd., Elgin, IL 60123	<b>Fax</b>
		<b>Email</b> gkbohlin@yahoo.com

**Zoning and Use Information:**

2030 Plan Land Use Designation of the property: Office & Research

Current zoning of the property: B2 District - Business

Current use of the property: Sports Center

Proposed zoning of the property: PUD District – Planned Development to allow mixed recreational and entertainment use.

Proposed use of the property: Mixed sports, recreational and entertainment use.

If the proposed Map Amendment is approved, what improvements or construction is planned? (An accurate site plan may be required)

Interior installation of restaurant/bar facilities.

**Attachment Checklist**

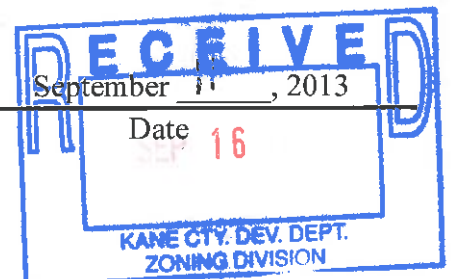
- Plat of Survey prepared by an Illinois Registered Land Surveyor.
- Legal description
- Completed Land Use Opinion application (Available in pdf form at [www.kanedupageswed.org/luo.pdf](http://www.kanedupageswed.org/luo.pdf)), as required by state law, mailed to: The Kane Dupage Soil and Water Conservation District, 545 S. Randall Road, St. Charles, IL 60174.
- Endangered Species Consultation Agency Action Report (available in pdf form at [www.dnr.state.il.us/orep/nrrc/aar.htm](http://www.dnr.state.il.us/orep/nrrc/aar.htm)) to be filed with the Illinois Department of Natural Resources.
- List of record owners of all property adjacent & adjoining to subject property
- Aerial (air photo) with property clearly highlighted contact:  
The Sidwell Co., 675 Sidwell Dr., St. Charles, IL (630) 549-1000
- Trust Disclosure (If applicable)
- Findings of Fact Sheet
- Application fee (make check payable to Kane County Development Department)

**I (we) certify that this application and the documents submitted with it are true and correct to the best of my (our) knowledge and belief.**  
International Sports, Inc

\_\_\_\_\_  
Record Owner: International Sports, Inc.

September 12, 2013  
\_\_\_\_\_  
Date

\_\_\_\_\_  
Intra Soccer LLC  
\_\_\_\_\_  
Applicant or Authorized Agent



## Findings of Fact Sheet – Rezoning

- The Kane County Zoning Board is required to make findings of fact when considering a rezoning. (map amendment)
- You should “make your case” by explaining specifically how your proposed rezoning relates to each of the following factors.

Intra Soccer, LLC  
Name of Development/Applicant

September 11, 2013  
Date

1. How does your proposed use relate to the existing uses of property within the general area of the property in question?

*The property has, for years, been used as a recreational center. The property to the direct south is used as an outdoor golf driving range. The Applicant intends to improve the property by building a restaurant within. The proposed uses of the property are set forth on **Exhibit 1.***

2. What are the zoning classifications of properties in the general area of the property in question?

*County agricultural/farming to the east and south; Village of Gilberts residential to the north and west.*

3. How does the suitability of the property in question relate to the uses permitted under the existing zoning classification?

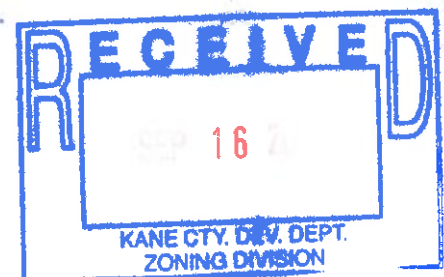
*The property has, for many years, been used as a sports and recreation center.*

4. What is the trend of development, if any, in the general area of the property in question?

*Recently built residential within the Village of Gilberts to the north and west. Agricultural property to the east and south is likely to develop as business/industrial.*

5. How does the projected use of the property, relate to the Kane County 2030 Land Use Plan?

*The 2030 Plan shows this area as “office and research”. The proposed use is consistent with that classification.*





**Zoning Request Report**  
County of Kane

Kane County Development  
719 Batavia Ave  
Geneva, IL 60134  
Phone: (630) 232-3492  
Fax: (630) 232-3411

TO: Kane County Zoning Board Of Appeals  
Kane County Development Committee  
County Board Member District  
Janice Hill                      Carl Scheodel                      Mark VanKerkhoff                      Monica Meyers  
Petitioner

**PETITION NUMBER** 2013-4305 **Date** 10/18/2013

GENERAL INFORMATION

**APPLICANT:** INTRA SOCCER, LLC  
ATTORNEY PETER BAZOS  
1250 LARKIN AVE, #100  
ELGIN 60123

**PURPOSE:** B-2 TO PUD TO ESTABLISH A MIXED SPORTS AND RECREATION FACILITY WITH A RESTAURANT SERVICING ALCOHOL

**EXISTING ZONING:** B-2 - BUSINESS;

**REQUESTED ACTION:** PUD - PLANNED UNIT DEVELOPMENT;

**SIZE:** 13.90 ACRES

**LOCATION:** NORTH SIDE OF MASON RD., 200 FEET EAST OF TYRELL RD., SECTION 30, DUNDEE TOWNSHIP (37W950 MASON RD.)

<b>SURROUNDING</b>	<b>ZONING</b>	<b>USE</b>
NORTH	F - FARMING;	AGRICULTURAL;
SOUTH	VILLAGE OF GILBERTS	DRIVING RANGE
EAST	F - FARMING;	AGRICULTURE
WEST	VILLAGE OF GILBERTS	RESIDENTIAL;

**EXISTING LAND USE:** RECREATIONONAL

**LAND USE PLAN DESIGNATION:** OFFICE/RESEARCH

**ZONING HISTORY:** PROPERTY REZONED TO B-2 IN 1973 FOR A TENNIS CLUB

**APPLICABLE LAND USE REGULATION:** ARTICLE XII, SECTION 12.1

Intra Soccer, LLC  
B-2 to PUD

**Special Information:** The property was rezoned to B-2 in 1973 for a tennis club. Soccer has been the primary use of the building since 1996. Since that time the County has received many complaints about the condition of the property and non-permitted activities taking place there. Andy Schcolnik recently signed a lease to operate the facility with the intent to improve the property and its reputation. The reason for the PUD zoning change is to allow Mr. Schcolnik to have a restaurant and bar on the property. The use list submitted within the PUD primarily includes uses already permitted under the B-2 zoning. The proposed PUD zoning would the service of alcohol on the property.

The property is adjacent to the Village of Gilberts. The petitioner has been in contact with the Village regarding their petition and potential for annexation to the Village in the future.

**Analysis:** The Kane County 2040 Land Resource Management Plan designates this area as Office/Research. The Office/Research designation comes from Elgin's Land Use Plan. The recreational use has been on the property for 40 years and a golf driving range is across the street. The petitioner has included in his petition restrictions regarding where certain activities may take place (i.e. on the east side of the property away from the residential area). The petition also states that security will be on the property to ensure no alcohol is brought onto the property by patrons and that participants behave in an appropriate fashion. The lighting restriction in the petition is more stringent than the County's current Ordinance.

**Staff recommendation:** The Kane County Technical Staff recommends approval of the rezoning request.

**Staff recommended Finding of Facts:**

1. The primary use of the property will continue to primarily be sports recreation.
2. The establishment of the PUD will not be detrimental to adjacent land uses.
3. The site plan approved in conjunction with the PUD will control the intensity of the parcel.
4. The restaurant / bar operator will need to apply for and be issued a new liquor licenses under separate application and approvals by the Kane County Board. Approval of the zoning petition does not guarantee approvals for a liquor license.

Attachments: Location Map  
Township Map  
PUD Use List  
Petitioner's finding of fact sheet

# **BazosFreeman**

Bazos, Freeman, Kramer, Schuster & Braithwaite, LLC



November 6, 2013

*Transmitted via Email and Facsimile to  
630-232-3411*

*vankerkhoffmark@co.kane.il.us*

Mark D. VanKerkhoff, Director,  
Development and Community Services Department  
County of Kane

Peter C. Bazos  
Bradley T. Freeman  
Robert S. Kramer  
Mark Schuster  
J. William  
Braithwaite

Kevin W. Mestek

*Writer's Contact:*  
pbazos@sbfklaw.com  
847-742-8800 x2030

Re: Intra-Soccer Petition

Dear Mark:

In our Zoning Application, on Exhibit 1, Section (b)(xvi) lists "video games and arcades" as a permitted use. You have indicated, however, that under the County's definitions, this technically does not include video gambling of the type which is currently licensed exclusively by the State of Illinois here in Kane County under the State "Video Gaming Act". In the unlikely event that the State ever cedes its authority over video gaming to the County, we would like our Petition to be amended instanter to include a request for video gaming of the type currently licensed under the Video Gaming Act.

Very truly yours,

Peter C. Bazos, Esq.

PCB/awy

1250 Larkin Avenue #100 Elgin, IL 60123  
847-742-8800 (o) 847-742-9777 (fx)

www.sbfklaw.com

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## Berkhout, Keith

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**From:** Nika, Kurt  
**Sent:** Wednesday, November 20, 2013 4:40 PM  
**To:** Berkhout, Keith  
**Cc:** Biewer, Brooke; Hajek, Scott; Wiegel, Julie; VanKerkhoff, Mark  
**Subject:** RE: Initial feedback on proposed I-Industry property split

Keith,  
I have not physically driven through to look at this access, but I have virtually driven it. Not sure what the current use of this parcel is, so not sure of the traffic volume in and out, but KDOT would not favor a use that is more intense than what is currently there, and especially not two residences. There is a very pronounced vertical curve just west of the access point. It is obvious the existing access would not meet the recommended sight distance for a 55 mph road; it might make the minimum sight distance requirements. However, the speed violation rate for Plank Road is VERY high per the latest traffic count. In addition, there is a moderate crash rate in the vicinity of this access. So, while a shared access is good, coupled with high speed, less than optimum sight distance, and an above-normal crash rate, the County should discourage this.

Kurt,

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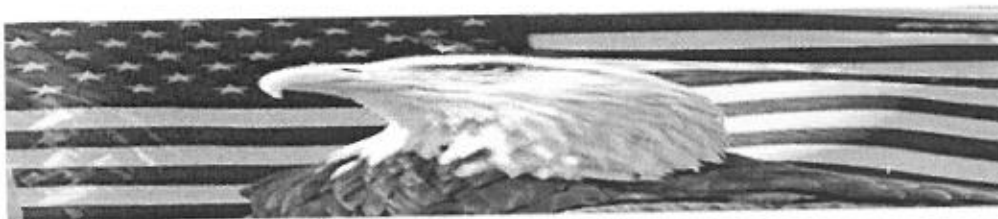
**From:** Berkhout, Keith  
**Sent:** Wednesday, November 20, 2013 3:17 PM  
**To:** VanKerkhoff, Mark  
**Cc:** Biewer, Brooke; Hajek, Scott; Wiegel, Julie; Nika, Kurt  
**Subject:** Initial feedback on proposed I-Industry property split

I spoke with the owner of property along the south side of Plank Road most of us are probably familiar with. It is zoned I-District Industry (04-12-200-004). The owner is interested in splitting it in half, keeping the one access point on Plank and having an easement for access to what would become the western parcel on the eastern parcel. He said he has no plans or buyers but he wants to make this split so he can try to sell the new western parcel. I would be interested in any initial comments you may have about this.

Thanks.

Keith T. Berkhout  
Zoning Planner  
Kane County Development and Community Services Department  
719 S. Batavia Avenue  
Geneva, Illinois 60134

630-232-3495 (Direct)  
630-232-3411 (Fax)  
[berkhoutkeith@co.kane.il.us](mailto:berkhoutkeith@co.kane.il.us)





**Mayor**  
David J. Kaptain

**City Council**  
Richard Dunne  
Terry L. Gavin  
Anna C. Moeller  
Tish S. Powell  
John Prigge  
Carol J. Rauschenberger  
Toby Shaw  
F. John Steffen

**City Manager**  
Sean R. Stegall

January 3, 2014

Mr. Keith Berkhout  
Zoning Planner  
Kane County Development and Community Services Department  
719 S. Batavia Avenue  
Geneva, Illinois 60134

RE: Intra Soccer, LLC Kane County Zoning Map Amendment Application, 37W950 Mason Road

Dear Mr. Berkhout:

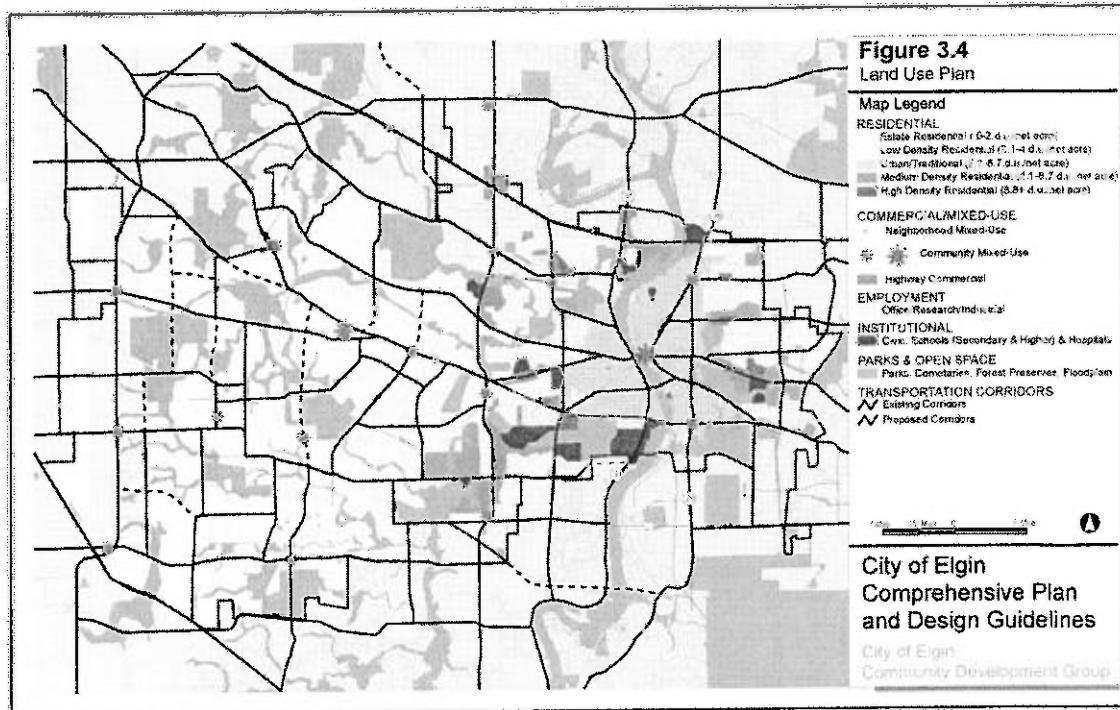
This letter represents the city's notice of objection to petition number 2013-4305 for the rezoning of the Intra Soccer, LLC facility at 37W950 Mason Road, more specifically identified by parcel number 03-30-300-008 (hereinafter referred to as "the Application").

The land uses suggested within the Application conflict with city's adopted comprehensive plan which has been established to guide growth and development. We offer the following specific comments and concerns for your consideration:

- Elgin Comprehensive Plan and Design Guidelines (2005) The subject property is located within the City of Elgin's planning area and has been designated as "Office, Research, Industrial" as shown on Figure 3.4 Land Use Plan and within the *Elgin Comprehensive Plan and Design Guidelines* adopted in 2005 (see next page). The requested rezoning to expand and intensify the existing sports and recreation facility by adding a restaurant, bar, and "other outdoor uses" (as defined by Exhibit 1 of the Application) is inconsistent with this plan.



Figure 3.4 of 2005 Elgin Comprehensive Plan



- Similarly, the city is currently discussing ways in which Alft Lane can be extended north to Mason Road. The sole purpose of making this infrastructure investment is to improve vehicular access to the undeveloped properties in and around Alft Lane and Mason Road to make these properties more attractive to the type of development envisioned by the city's comprehensive plan (office, research, and industrial). The "other outdoor uses" suggested within the Application would negatively impact the city's economic development efforts in this immediate area, especially considering that the Application provides no indication as to how those uses would be situated on the subject property. As but one example, laser tag and paint ball facilities often include large random structures appearing to be partially destroyed and dilapidated to simulate a combat or war zone. Such an establishment, or any of the other outdoor uses without the proper considerations toward the city's long-term planning efforts, would seriously impair our ability to attract high-quality office, research, or industrial tenants, especially on the parcel immediately to the east of the subject property.
- For the same concerns as noted above, the Application does not specifically define the frequency of "occasional" when describing "[o]ccasional outdoor music and other entertainment" on the east side of the property.

- For the same concerns as noted above, the Application does not define what is meant by “dark sky lights” when listing “[o]utdoor lighting” as a permitted use. The Application does not provide detail about the design, height, fixtures, or shields proposed for the lights and associated poles.
- The Application does not provide sufficient safeguards regarding an adequate supply of on-site parking. The site plan shows two areas for “future expansion of indoor courts,” three “future outdoor fields,” and two “future fenced area[s]” for eating and drinking, but shows no additional parking. In fact, if improved in accordance with the site plan, the amount of on-site parking would be reduced from 114 spaces to 48 spaces because one of the “future outdoor fields” is shown upon an existing 76 space parking area.
- Regarding the request to permit alcohol sales and consumption at the subject property, the city concurs with the objections cited by the Village of Gilberts within their letter written to you on November 4, 2013. More so, one of the areas where such sales and consumption would be permitted is immediately adjacent to an existing outdoor soccer field. With no specifics proposed regarding the design or operation of this area, this area could be improved with nothing but temporary bleachers overlooking the soccer field. Such a structure and operation is not only incompatible with the adjacent residential land uses to the west, but is again – like the outdoor uses described above – completely contrary to city’s intent for development in this area.

For all of the above reasons, the city objects to the proposed rezoning and requests that the County Board deny the Application. The land uses and intensity requested within the Application are more appropriate in much more rural area – one that is not immediately adjacent to single-family homes or to an area planned for high-quality office, research, or industrial development in the very near future. Thank you for giving us the opportunity to provide our comments and concerns.

Sincerely,



Marc S. Mylott, AICP  
Director of Community Development

The redline changes show proposed modifications to address concerns raised by the Village of Gilberts and the City of Elgin. Changes made as of January 7, 2014 are highlighted in blue.

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January 7, 2014

### EXHIBIT 1

#### Requested Uses within the Proposed PUD District

1. The Applicant requests that the PUD Ordinance allow the property to be used as set forth below:

##### I. Permitted Uses

(a) The uses as permitted in the R1, R2, R3 and R4 (except subsections a and j of R4) and B1 Districts;

(b) Other Indoor uses including:

- i. Soccer
- ii. Lacrosse
- iii. Batting cages
- iv. Sports instruction
- v. Rock / wall climbing
- vi. Archery
- vii. Health and exercise programs, such as "Jazzercise," aerobics, weight lifting and the like
- viii. Sporting uses, including boxing and wrestling events
- ix. Restaurants with sales/service of beer and wine
- x. Weddings, birthday parties, dances, private parties, banquets and the like
- xi. Dance schools and studios, including public dancing and dance halls
- xii. Entertainment offering bands, orchestras, actors, musicians, magicians and other entertainers and entertainment groups (with all of these activities being held in the east end of the building only)
- xiii. Dog agility training/dog/cat shows
- xiv. Children's activities, games centers, and entertainment structures
- xv. Childcare / daycare activities
- xvi. Video games and arcades (requires licensing with the County)
- xvii. Lasertag and paintball games
- xviii. Swimming pool
- xix. Church services
- xx. Public service events and speaker's forums
- xxi. Fashion shows
- xxii. Movies and television viewing
- xxiii. Craft and trade show
- xxiv. Retail sales of goods and apparel
- xxv. Offices

(c) Other Outdoor Uses including:

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- i. Sporting uses listed above
- ii. ~~Up to two (2)~~ One (1) fenced patio areas used for food and beverage (including alcoholic beverage) consumption in conjunction with indoor food and bar area
- iii. Sports instruction
- iv. ~~Lasertag and paintball facilities~~
- v. ~~Occasional carnivals limited to the east portion of the property;~~
- vi. ~~Occasional outdoor music and other entertainment limited to the east portion of the property;~~
- vii. ~~Swimming pool~~
- viii. ~~Outdoor lighting using only "dark sky lights" and when used shall conform to the most restrictive of the County's or nearby Village of Gilberts or City of Elgin's performance standards.~~

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## II. Special Uses

Those uses designated as "special uses" in the County's B-1 and B-2 zoning classifications.

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(d) All "Adult" uses as defined in Section 3.1 of the Kane County Zoning Code, shall be prohibited.

(e) Residential uses shall not be allowed.

(f) Outdoor sound amplification shall not be used after 7 PM, and when used shall conform to the more restrictive of the County's or nearby Village of Gilberts' performance standards.

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2. The Applicant proposes the following operations controls and conditions:

(a) At all times when (i) adult sporting activities or parties are being conducted or (ii) when alcohol is being served, the operator shall have present on the Subject Property private security personnel to ensure that (A) alcohol is not brought onto the Subject Property from outside by patrons or others (with any alcohol to be limited to alcohol sold on the Subject Property pursuant to a license issued by the County) and (B) quarrels or other disturbances are prevented or immediately controlled and/or reported.

(b) If an alcoholic beverage license is approved by the County, such alcohol will be served and allowed to be consumed only (i) in the building in the area built for the bar and (ii) in any outside patio area fenced and used exclusively in conjunction with such interior bar area. Alcohol will not be sold or consumed in other places within the building or on the grounds.

3. Based on Applicant's discussions with the Village of Gilberts and the City of Elgin, the Applicant requests that the following provisions be included in the PUD ordinance adopted by the County:

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(a) All of the uses of the Subject Property enumerated in Section 1 of this Exhibit 1, other than the sale and service of alcoholic beverages, are permitted uses under the existing underlying B-2 zoning classification of the Subject Property; and

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(b) In connection with any future expansion of uses as shown on the approved PUD Site Plan, the Owner shall, as a condition thereof, ensure that there is adequate parking as per the County's off-street parking ordinance.

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(bc) The Planned Unit Development approved by this ordinance was enacted solely to enable the Subject Property to be eligible for such liquor license, if any, as the County may hereafter agree

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## Berkhout, Keith

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**From:** VanKerkhoff, Mark  
**Sent:** Thursday, January 30, 2014 1:49 PM  
**To:** Lulves, Joseph; hlombardo@kfkllaw.com; pkinnally@kfkllaw.com  
**Cc:** Ray Keller; Peter Bazos; Kojzarek, Kurt Robert; Berkhout, Keith; Garza, Barbara; Watson, Kathleen  
**Subject:** Gilberts IGA with County and property owner  
**Attachments:** SGCDEVC03Q14012810080.pdf

**Importance:** High

Joe and Pat,

County staff has been working with the property owner and lessee for the indoor soccer facility on Mason Road for several years. The lessee had initially proposed submitting a zoning petition for rezoning to allow for them to apply for a liquor license in 2012, but waited until after the 2012 fall election seeking favorable support from the now County Board member, Kurt Kojzarek.

A petition was submitted on September 16, 2013. It was initially formerly opposed by the Village of Gilberts (letter dated November 4, 2013) and the City of Elgin (letter dated January 3, 2014). The petitioner has met independently with both municipalities to discuss their concerns with the petition. The petitioner has amended the petition to meet the Village of Gilberts' concerns and may be making additional amendments to placate the City of Elgin's concerns.

County staff was not party to any meetings with the municipalities and the petitioner. While County staff was aware that the petitioner was working on an agreement with the Village of Gilberts regarding their desire to be reimbursed by the petitioner for 911 calls to the property responded to by Village Police (instead of the Sheriff), County staff was not part of the negotiations nor given opportunity to review and comment on the attached IGA passed by the Village of Gilberts and faxed to Kane County on January 22, 2014.

The main point being requested for the County to agree to is as follows:

### IV. AGREEMENT BY COUNTY

- 4.1 The County shall incorporate within any planned development ordinance enacted by the County in response to the Intra Soccer Zoning Petition a requirement and condition that Intra Soccer shall abide by the provisions of this Agreement as a condition to the Subject Property remaining eligible to have and enjoy a County-issued liquor license.

My understanding from Village Administrator Ray Keller (via a phone call late yesterday) is that the Village is mainly concerned about getting reimbursed for police calls to the subject property. I suggested that a simple contract/agreement between the petitioner and the Village might be sufficient and enforceable by the Village, but he stated that the Village would like the County to enforce the agreement, apparently through the non-renewal, revocation or suspension of the petitioner's liquor license.

**As attorneys to the County Board and the Liquor Commission, can you please review and advise staff as to the appropriateness of this proposed IGA, and if deemed appropriate, advise as to the best way to coordinate County Board review and approval of this IGA in relationship to the zoning petition?**

I have copied Village Administrator Ray Keller and Peter Bazos, attorney for the petitioner, so that they can add anything I have missed, or in the case that I have unintentionally misrepresented any of the above information.

In terms of schedule, the petition will be the subject of a public hearing in front of the Kane County Zoning Board of Appeals on February 4th, is scheduled to be in front of the Development Committee on February 10<sup>th</sup>, and the full County Board on March 11, 2014. We are setting the agenda for Development Committee now, to be finalized by next Tuesday.

Thank you,

Mark D. VanKerkhoff, AIA, Director  
Kane County Development & Community Services Department  
719 South Batavia Avenue  
Geneva, Illinois 60134  
(630) 232-3451  
(630) 232-3411 (fax)  
[www.co.kane.il.us](http://www.co.kane.il.us)

# Village of Gilberts

Village Hall  
87 Galligan Road, Gilberts, Illinois 60136  
Ph. 847-428-2861 Fax: 847-428-2955  
[www.villageofgilberts.com](http://www.villageofgilberts.com)

January 22, 2014

The County of Kane  
Attn: Mark D. VanKerkoff, Director of Development & Community  
Service Department  
719 South Batavia Avenue  
Geneva, Illinois 60134

Dear Mr. VanKerkoff,

Please see the attached copy of Resolution 03-2014, a Resolution which was approved by the Village of Gilberts Board of Trustees on January 21, 2014, authorizing an Intergovernmental Agreement between the Village of Gilberts, Kane County, and Intra Soccer, LLC. Upon approval please forward a copy of the appropriate signature page.

If you have any questions, please do not hesitate to contact me at 847-428-2861.

Sincerely,



Debra Meadows  
Village Clerk



**Resolution No.03-2014**

**VILLAGE OF GILBERTS**

**Authorizing an Intergovernmental Agreement between the Village of Gilberts, Kane County, and Intra Soccer, LLC**

Be it Resolved by the President and Board of Trustees of the Village of Gilberts, Kane County, Illinois that:

**Section 1:**

The Village of Gilberts hereby authorizes the Village President and Village Clerk to execute an intergovernmental agreement between the Village of Gilberts, Kane County, and Intra Soccer, LLC for the purpose of limiting activity and negatively impacting the adjacent properties located within the Village of Gilberts jurisdiction. The agreement is attached hereto and made part hereof as Exhibit A as approved.

**Section 2:**

This resolution shall be in full force and in effect from and after its passage and approval pursuant to law.

Passed this 21<sup>st</sup> day of January, 2014 by a roll call vote as follows:

	<u>Ayes</u>	<u>Nays</u>	<u>Absent</u>	<u>Abstain</u>
Trustee David LeClercq	✓	_____	_____	_____
Trustee Dan Corbett	✓	_____	_____	_____
Trustee Lou Hacker	✓	_____	_____	_____
Trustee Nancy Farrell	✓	_____	_____	_____
Trustee Patricia Mierisch	✓	_____	_____	_____
Trustee Guy Zambetti	✓	_____	_____	_____
President Rick Zirk	_____	_____	_____	_____

APPROVED THIS 21 DAY OF Jan., 2014

[Signature]  
Village President, Rick Zirk



ATTEST: [Signature]  
Village Clerk, Debra Meadows

Published: 1/22/2012

## INTERGOVERNMENTAL AGREEMENT

This Intergovernmental Agreement ( "**Agreement**") is made and entered into this <sup>21<sup>st</sup></sup> day of ~~Jan~~, 2014, by and between the COUNTY OF KANE, a body corporate and politic (the "**County**"), INTRA SOCCER, LLC, an Illinois limited liability company ( "**Intra Soccer**" ), and the VILLAGE OF GILBERTS, an Illinois municipal corporation (the "**Village**"). The County, Intra Soccer and the Village are hereinafter sometimes individually referred to as a "**Party**" or collectively as the "**Parties**".

### RECITALS

WHEREAS, Article 7, Section 10 of the Constitution of the State of Illinois, 1970, authorizes units of local government, including municipalities, to enter into contracts to exercise, combine or transfer any power or function not prohibited to them by law or ordinance; and

WHEREAS, the Intergovernmental Cooperation Act ILCS 5-220/1, et seq., authorizes local governments in Illinois to exercise jointly with any other public agency within the state, including other units of local government, any power, privilege, or authority which may be exercised by a unit of local government individually and to enter into contracts for the performance of governmental services, activities and undertakings; and

WHEREAS, Intra Soccer is tenant of that certain commercial property commonly known as 37W950 Mason Road, Elgin, Illinois and legally described on Exhibit A attached hereto (the "**Subject Property**"), which is situated in the unincorporated portion of the County bit adjacent to the Village; and

WHEREAS, Intra Soccer has petitioned the County (the "**Zoning Petition**") to grant planned development zoning for the Subject Property so that Intra Soccer, as the operator of certain business activities therein, may be eligible to procure a liquor license and serve alcoholic beverages at the Subject Property (the "**Planned Development Zoning**"); and

WHEREAS, because of its proximity to the Subject Property, it has historically been the case that when police emergencies have occurred at the Subject Property, the Kane County Sheriff ("**Sheriff**") has often called (and will likely continue to call) the Village and ask that it dispatch its police vehicles to act as a first responder at the Subject Property (hereinafter an "**Extraterritorial Village Police Response**"). Each such Extraterritorial Village Police Response is costly to the Village; and

WHEREAS, the Village has concerns that the if liquor is allowed to be served at the Subject Property, the Village police department may become involved in an increased number of Extraterritorial Village Police Responses, to its financial detriment; and

WHEREAS, but for the agreements contained in this Agreement, the Village would not have agreed to withdraw its formal objection to the Zoning Petition filed with the County; and

WHEREAS, to induce the Village to withdraw its said objection, Intra Soccer has agreed to execute and enter into this Agreement; and

WHEREAS, the County believes that the provisions of this Agreement (i) are a reasonable accommodation to the legitimate interests of the Village as pertaining to the Zoning Petition, and (ii) constitute a fair and equitable condition to the County's approval of the Zoning Petition; and

WHEREAS, the County, Intra Soccer, and the Village may each lawfully enter into this Agreement.

### **CONSIDERATION AND AGREEMENT**

NOW, THEREFORE, in consideration of the premises, the mutual covenants, terms, and conditions herein set forth, and the understandings of each Party to the other, the Parties do hereby mutually covenant, promise and agree as follows:

#### **I. INCORPORATION OF RECITALS**

1.1. The foregoing recitals are incorporated herein by reference as though fully set forth.

#### **II. AGREEMENT TO REIMBURSE THE VILLAGE FOR COSTS PERTAINING TO CERTAIN EXTRATERRITORIAL VILLAGE POLICE RESPONSES**

- 2.1 Intra Soccer hereby covenants and agrees that it shall pay to the Village the greater of (i) its actual costs (as determined in accordance with **Exhibit B** attached hereto) or (ii) the sum of Seven Hundred Fifty Dollars (\$750) for each Extraterritorial Village Police Response made by the Village police force to the Subject Property at the request of the Sheriff to deal with a disturbance that has arisen from the service of alcohol on the Subject Property (an "**Alcohol-Related Disturbance**", with such payment being referred to as an "**Extraterritorial Response Cost Reimbursement**").
- 2.2 Each such Extraterritorial Response Cost Reimbursement shall be paid by Intra Soccer to the Village within 30 days of date of invoice (which invoice shall detail the date and time of the Extraterritorial Village Police Response giving rise to the invoice for the Extraterritorial Response Cost Reimbursement). Failure to make such payment which continues for more than fourteen (14) days following written notice thereof by the Village to Intra Soccer and the County shall constitute a violation of Intra Soccer's liquor license and shall also entitle the Village to recover such unpaid sums, together with reasonable attorney's fees and court costs, by way of an action at law in the Circuit Court of Kane County, Illinois.

- 2.3 The Sheriff shall endeavor, in good faith, to answer on its own (and without involvement of the Village's police force) any calls for police assistance at the Subject Property so as to minimize the number of requests for an Extraterritorial Village Police Response by the Village.

### **III. WITHDRAWAL OF VILLAGE OBJECTION TO ZONING PETITION**

- 3.1 In consideration for the agreement for reimbursement of village costs and other terms of this Agreement and the County's acceptance of the Village's recommended conditions on the approval of the Zoning Petition as set forth in Exhibit C to this Agreement, the Village agrees to (i) withdraw its previously filed objection to Intra Soccer's Zoning Petition, (ii) not to renew or reassert any such objection, and (iii) not to in any other way oppose the approval of the Zoning Petition or the liquor license application to be sought by the petitioner if and when the County approves the Zoning Petition.

### **IV. AGREEMENT BY COUNTY**

- 4.1 The County shall incorporate within any planned development ordinance enacted by the County in response to the Intra Soccer Zoning Petition a requirement and condition that Intra Soccer shall abide by the provisions of this Agreement as a condition to the Subject Property remaining eligible to have and enjoy a County-issued liquor license.

### **V. OTHER AGREEMENTS AND UNDERSTANDINGS**

- 5.1 The execution of this Agreement by the County shall not impose upon the County any obligation to (i) approve the Zoning Petition or (ii) approve and issue to Intra Soccer a liquor license for use at the Subject Property.
- 5.2 This Agreement shall have no force or effect, and shall be terminable by Intra Soccer, if the County does not (i) approve the Zoning Petition and (ii) approve and issue to Intra Soccer a liquor license for use at the Subject Property.
- 5.3 If the County has not (i) approved the Zoning Petition and (ii) approved and issued to Intra Soccer a liquor license for use at the Subject Property within six (6) months of the date hereof, then any Party hereto may, within 30 days of the end of the said sixth month period, terminate this Agreement.

### **VI. GENERAL PROVISIONS**

- 6.1 This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.
- 6.2 Each Party hereto represents to the other that it has full knowledge as to all

material matters bearing on the respective positions and obligations that are addressed by this Agreement and acknowledges the reliance of the other Party on the representations and undertakings set forth herein in entering into this Agreement.

- 6.3 This Agreement embodies the entire agreement of the Parties with respect to the subject matter hereof. There are no promises, terms, conditions or obligations other than those contained herein. This Agreement shall not be modified except with the written consent of all of the Parties hereto.
- 6.4 No Party shall be under any obligation to exercise any of the rights granted to it in this Agreement except as it shall determine to be in its best interest from time to time. Except as otherwise expressly provided herein, the failure of any Party to exercise at any time any such right shall not be deemed or construed a waiver thereof, nor shall such failure void or adversely affect such Party's right to enforce such right or any other right. However, nothing contained in this paragraph shall relieve any Party of its obligations hereunder.
- 6.5 Unless expressly provided to the contrary in this Agreement, each and every one of the rights, remedies and benefits provided by this Agreement shall be cumulative and shall not be exclusive of any other such rights, remedies and benefits allowed by law.
- 6.6 This Agreement is and shall be deemed and construed to be the joint and collective work product of Parties hereto and, as such, this Agreement shall not be construed against either Party, as the otherwise purported drafter of same, by any court of competent jurisdiction and order resolving any inconsistency, any ambiguity, vagueness of conflict in the terms or provisions, if any, contained herein.
- 6.7 This Agreement shall be enforceable in the Circuit Court of Kane County, Illinois by any of the Parties, by an appropriate action at law or in equity to secure the performance of the covenants herein described. If any clause or provision of this Agreement is determined to be illegal, invalid, or unenforceable under present or future laws, the remainder of this Agreement shall not be affected by such determination, and in lieu of each clause or provision that is determined to be illegal, invalid or unenforceable, there shall be added as a part of this Agreement a clause or provision as similar in terms to such illegal, invalid or unenforceable clause or provision as may be possible and be legal, valid and enforceable.
- 6.8 This Agreement may be executed in multiple counterparts, all of which, together, shall constitute one and the same agreement.
- 6.9 No Party shall be deemed to be in breach of its obligations hereunder unless (i) written notice of the alleged breach is first given to such Party allegedly in default (the "**Defaulting Party**") and (ii) the Defaulting Party fails to correct such alleged breach within thirty (30) days of the date of such notice. The Parties recognize that the conveyances, easement grants and easement amendments herein provided for are unique property rights and that no adequate remedy at law would be available should a Party hereto breach its obligations

with regard to the conveyance or granting of same. As such, the Parties stipulate and agree that any such obligation to convey land, grant an easement or amend any existing easement as herein provided shall be specifically enforceable in a court of competent jurisdiction, and all Parties waive any requirement for the posting of any bond in any such proceeding.

6.10 Miscellaneous:

(a) Authority. The Parties hereto have read and reviewed the terms of this Intergovernmental Agreement and by their signature as affixed below represent that the signing Party has the authority to execute this Agreement and that the Parties intend to be bound by the terms and conditions contained herein.

(b) Interpretation. This Agreement shall be construed, and the rights and obligations of the Village, Intra Soccer, and the County hereunder shall be determined in accordance with the laws of the State of Illinois without reference to its conflict of laws rules.

(c) Relationship of the Parties. This Agreement shall not be deemed or construed to create an employment, joint venture, partnership or other agency relationship between the Parties hereto.

(d) Specific Enforcement. Because of the unique property rights and municipal services to be conveyed and created hereunder, the Parties stipulate and agree that in the event of a breach by any Party of its covenants or obligations hereunder, the other Parties shall have the right to obtain an order of court, in the nature of a mandatory injunction, without bond, compelling the Party in default to perform its obligations hereunder.

(e) No Waiver. The failure of any Party to this Agreement to insist upon strict and prompt performance of the terms, covenants, agreements and conditions herein contained, or any of them, upon any other Party imposed, shall not constitute or be construed as a waiver or relinquishment of any Party's rights, to enforce any such term, covenant, agreement, or condition, but the same shall continue in full force and effect. No waiver by any Party shall be valid or binding on such Party unless it is in writing and signed by such Party, and then only to the extent therein set forth.

(f) Remedies Cumulative. Unless expressly provided otherwise herein, the rights and remedies of the Village, Intra Soccer, and the County provided for herein shall be cumulative and concurrent and shall include all other rights and remedies available at law or in equity, may be pursued singly, successively or together, at the sole and absolute discretion of the Village, Intra Soccer and the County and may be exercised as often as occasion therefor shall arise.

(g) Notices. Notices or other writings which any Party is required to or may wish to serve upon any other Party in connection with this Agreement shall be in writing and shall be delivered (i) personally (ii) sent by registered or certified mail, return receipt requested, postage prepaid, or (iii) served by facsimile

transmission during regular business hours; addressed as follows:

If to the Village:

Village of Gilberts  
73 Industrial Drive  
Gilberts, Illinois 60136  
Attention: Village Clerk  
Facsimile: 847428-2955

If to Intra Soccer:

Intra Soccer, LLC  
Attn: Andre Schoolnik  
2035 W. Giddings  
Chicago, IL 60625  
Facsimile: 773-784-3141

With a copy to:

Peter C. Bazos, Esq.,  
Bazos, Freeman, Kramer, Schuster & Braithwaite, LLC  
1250 Larkin Ave., Suite 100  
Elgin, Illinois 60123  
Facsimile: 847-742-9777

If to the County:

The County of Kane  
Attn: Mark D. VanKerkoff, Director of Development & Community  
Services Department  
719 South Batavia Avenue  
Geneva, Illinois 60134  
Facsimile: 630-232-3411

or to such other address as any Party may from time to time designate in a written notice to the other Party.

(h) Time. Time is of the essence of this Agreement.

(i) Contingent. This Agreement shall have no force or effect unless the County approves the Zoning Petition and issues to Intra Soccer the liquor license(s) it requests, neither of which acts the County is hereby agreeing to do.

[signature pages follow]

IN WITNESS WHEREOF, the Parties hereto have entered into and executed this Agreement on the date and year first written above.

INTRA SOCCER  
an Illinois limited liability company  
By: \_\_\_\_\_  
Name: Andres Schcolnik  
Title: a Manager

Date executed: \_\_\_\_\_, 2014



COUNTY OF KANE  
A Body Corporate and Politic

By: \_\_\_\_\_  
Chris Lauzen, Chairman  
Kane County Board

Attest: \_\_\_\_\_  
Jack A. Cunningham  
County Clerk

Date executed: \_\_\_\_\_, 2014

VILLAGE OF GILBERTS  
an Illinois municipal corporation

By:   
Rick Zirk, President

Attest:  
  
Debra Meadows, Village Clerk

Date executed: 1/21/2014, 2014

**EXHIBIT A  
LEGAL DESCRIPTION OF SUBJECT PROPERTY**

**EXHIBIT B**  
**CALCULATION OF EXTRATERRITORIAL RESPONSE COST**

The cost of an extraterritorial response shall be calculated as 160% of the actual cost of wages (inclusive of overhead costs (i.e. payroll taxes, pension, capital costs) of the police officer(s) responding to the incident, securing the site, apprehension/custody of charged individual(s) and/or evidence from the incident and prosecution/court costs, as applicable.

**EXHIBIT C**  
**Village of Gilberts Proposed Conditions of Approval**  
**for the Intra Soccer LLC Facility PUD Ordinance**

The Village of Gilberts recommends to Kane County that the following conditions be incorporated into the proposed PUD Ordinance for the Intra Soccer LLC facility:

1. The following uses are excluded from the list of permitted uses:
  - a) Outdoor lasertag and paintball facilities
  - b) Carnivals, circuses, trade shows/exhibits and similar outdoor uses
  - c) Outdoor music and other entertainment
2. Residential uses that would otherwise be allowed by the underlying zoning district as either permitted or special uses shall be prohibited.
3. All "Adult" uses as defined in Section 3.1 of the Kane County Zoning Code shall be prohibited.
4. Outdoor sound amplification shall not be used after 7 PM, and when used shall conform to the more restrictive of the County's or nearby Village of Gilberts' performance standards..
5. Outdoor lighting shall use only "dark sky lights" and when used shall conform to the more restrictive of the County's or the Village of Gilberts' lighting performance standards.
6. At all times when (i) adult sporting activities or parties are being conducted or (ii) when alcohol is being served, the operator shall have present on the Subject Property adequate staff and / or private security personnel to ensure that (A) alcohol is not brought onto the Subject Property from outside by patrons or others (with any alcohol to be limited to alcohol sold on the Subject Property pursuant to a license issued by the County) and (B) quarrels or other disturbances are prevented or immediately controlled and/or reported.
7. If an alcoholic beverage license is approved by the County, such alcohol will be served and allowed to consumed only (i) in the building in the area approved for such consumption by the County and (ii) in any outside patio area fenced licensed for such consumption in conjunction with such interior bar area. Alcohol will not be sold or consumed in other places within the building or on the grounds.
8. The PUD Ordinance is approved specifically for Intra Soccer LLC (currently the tenant with an option to purchase) and is not transferable to another owner, entity or operator other than Intra Soccer LLC without approval by the Kane County Board.

## Berkhout, Keith

---

**From:** Patrick M Kinnally <pkinnally@KFKLLAW.COM>  
**Sent:** Friday, January 31, 2014 11:52 AM  
**To:** VanKerkhoff, Mark; Lulves, Joseph; Heather Lombardo  
**Cc:** Ray Keller; Peter Bazos; Kojzarek, Kurt Robert; Berkhout, Keith; Garza, Barbara; Watson, Kathleen  
**Subject:** RE: Gilberts IGA with County and property owner

Mark

I tried to call you but you were away.

I have read the proposed agreement. I am not a fan of tying private or public land use concerns with the issuance of liquor licenses.(4.1)

We have discussed this before and I believe the Liquor Commission and The County Board are of the same persuasion.

The issue of enforcement of liquor commission laws are governed by statute and not private agreements. Whether the Soccer Company

Pays the village or not for Police response(s) I suppose could be made a condition of the liquor license but that would be up to the Commission.

The Liquor Commission is a separate entity from the County. A liquor licensee has the right to challenge through a hearing whether he

Has violated the Liquor Code. This includes an appeal to the State Liquor Commission. Therefore 6.9 is not agreeable.

The Liquor Commission would not agree to

6.1

Since the property is in the County The Sheriff would be the primary first responder unless there is an agreement to the contrary.

Neither the Liquor Commission nor the County would agree to 6.10(d)

I have not talked to Barbara Garza about this yet. I should be around most of the Afternoon.

All the best

Kinnally

---

**From:** VanKerkhoff, Mark [<mailto:vankerkhoffmark@co.kane.il.us>]  
**Sent:** Thursday, January 30, 2014 1:49 PM  
**To:** Lulves, Joseph; Heather Lombardo; Patrick M Kinnally  
**Cc:** Ray Keller; Peter Bazos; Kojzarek, Kurt Robert; Berkhout, Keith; Garza, Barbara; Watson, Kathleen  
**Subject:** Gilberts IGA with County and property owner  
**Importance:** High

Joe and Pat,

County staff has been working with the property owner and lessee for the indoor soccer facility on Mason Road for several years. The lessee had initially proposed submitting a zoning petition for rezoning to allow for them to apply for a liquor license in 2012, but waited until after the 2012 fall election seeking favorable support from the now County Board member, Kurt Kojzarek.

A petition was submitted on September 16, 2013. It was initially formerly opposed by the Village of Gilberts (letter dated November 4, 2013) and the City of Elgin (letter dated January 3, 2014). The petitioner has met independently with both municipalities to discuss their concerns with the petition. The petitioner has amended the petition to meet the Village of Gilberts' concerns and may be making additional amendments to placate the City of Elgin's concerns.

County staff was not party to any meetings with the municipalities and the petitioner. While County staff was aware that the petitioner was working on an agreement with the Village of Gilberts regarding their desire to be reimbursed by the petitioner for 911 calls to the property responded to by Village Police (instead of the Sheriff), County staff was not part of the negotiations nor given opportunity to review and comment on the attached IGA passed by the Village of Gilberts and faxed to Kane County on January 22, 2014.

The main point being requested for the County to agree to is as follows:

#### IV. AGREEMENT BY COUNTY

- 4.1 The County shall incorporate within any planned development ordinance enacted by the County in response to the Intra Soccer Zoning Petition a requirement and condition that Intra Soccer shall abide by the provisions of this Agreement as a condition to the Subject Property remaining eligible to have and enjoy a County-issued liquor license.

My understanding from Village Administrator Ray Keller (via a phone call late yesterday) is that the Village is mainly concerned about getting reimbursed for police calls to the subject property. I suggested that a simple contract/agreement between the petitioner and the Village might be sufficient and enforceable by the Village, but he stated that the Village would like the County to enforce the agreement, apparently through the non-renewal, revocation or suspension of the petitioner's liquor license.

**As attorneys to the County Board and the Liquor Commission, can you please review and advise staff as to the appropriateness of this proposed IGA, and if deemed appropriate, advise as to the best way to coordinate County Board review and approval of this IGA in relationship to the zoning petition?**

I have copied Village Administrator Ray Keller and Peter Bazos, attorney for the petitioner, so that they can add anything I have missed, or in the case that I have unintentionally misrepresented any of the above information.

In terms of schedule, the petition will be the subject of a public hearing in front of the Kane County Zoning Board of Appeals on February 4th, is scheduled to be in front of the Development Committee on February 10<sup>th</sup>, and the full County Board on March 11, 2014. We are setting the agenda for Development Committee now, to be finalized by next Tuesday.

Thank you,

Mark D. VanKerkhoff, AIA, Director  
Kane County Development & Community Services Department  
719 South Batavia Avenue  
Geneva, Illinois 60134  
(630) 232-3451  
(630) 232-3411 (fax)  
[www.co.kane.il.us](http://www.co.kane.il.us)

| [February 2, 2014](#)

**EXHIBIT 1**  
Requested Uses within the Proposed PUD District

1. The Applicant requests that the PUD Ordinance allow the property to be used as set forth below:

I. Permitted Uses

(a) The uses as permitted in the R1, R2, R3 and R4 (except subsections a and j of R4) and B1 Districts;

(b) Other Indoor uses including:

- i. Soccer
- ii. Lacrosse
- iii. Batting cages
- iv. Sports instruction
- v. Rock / wall climbing
- vi. Archery
- vii. Health and exercise programs, such as "Jazzercise," aerobics, weight lifting and the like
- viii. Sporting uses, including boxing and wrestling events
- ix. Restaurants with sales/service of beer and wine
- x. Weddings, birthday parties, dances, private parties, banquets and the like
- xi. Dance schools and studios, including public dancing and dance halls
- xii. Entertainment offering bands, orchestras, actors, musicians, magicians and other entertainers and entertainment groups (with all of these activities being held in the east end of the building only)
- xiii. Dog agility training/dog/cat shows
- xiv. Children's activities, games centers, and entertainment structures
- xv. Childcare / daycare activities
- xvi. Video games and arcades (requires licensing with the County)
- xvii. Lasertag and paintball games
- xviii. Swimming pool
- xix. Church services
- xx. Public service events and speaker's forums
- xxi. Fashion shows
- xxii. Movies and television viewing
- xxiii. Craft and trade show
- xxiv. Retail sales of goods and apparel
- xxv. Offices

(c) Other Outdoor Uses including:



- i. Sporting uses limited to soccer, lacrosse, baseball, golf, tennis, baseball, football and frisbee, listed above
- ii. Up to two (2) One (1) fenced patio areas used for food and beverage (including alcoholic beverage) consumption in conjunction with indoor food and bar area
- iii. Sports instruction pertaining to soccer, lacrosse, baseball, golf, tennis, baseball, football and frisbee;
- iv. ~~Lasertag and paintball facilities~~
- v. ~~Oceasional carnivals limited to the east portion of the property;~~
- vi. ~~iv. Oceasional outdoor music and other entertainment limited to the east portion of the property;~~
- vii. ~~v. Swimming pool~~
- viii. ~~vi. Outdoor lighting using only "dark sky lights" and when used shall conform to the most restrictive of the County's or nearby Village of Gilberts' or City of Elgin's performance standards.~~

## II. Special Uses

Those uses designated as "special uses" in the County's B-1 and B-2 zoning classifications.

(d) All "Adult" uses as defined in Section 3.1 of the Kane County Zoning Code, shall be prohibited.

(e) Residential uses shall not be allowed.

(f) Outdoor sound amplification shall not be used after 7 PM, and when used shall conform to the more restrictive of the County's or nearby Village of Gilberts' performance standards..

2. The Applicant proposes the following operations controls and conditions:

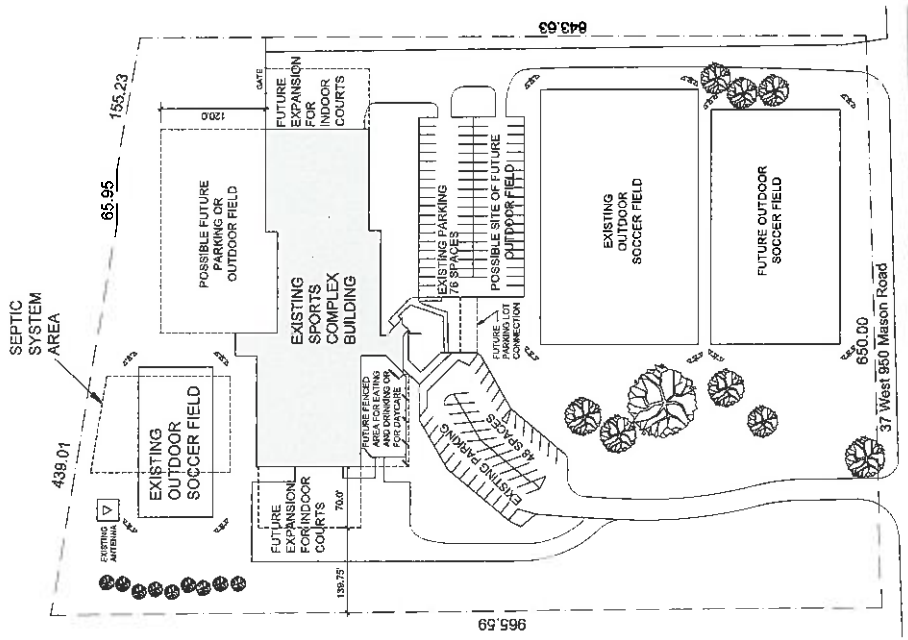
- (a) At all times when (i) adult sporting activities or parties are being conducted or (ii) when alcohol is being served, the operator shall have present on the Subject Property private security personnel to ensure that (A) alcohol is not brought onto the Subject Property from outside by patrons or others (with any alcohol to be limited to alcohol sold on the Subject Property pursuant to a license issued by the County) and (B) quarrels or other disturbances are prevented or immediately controlled and/or reported.
- (b) If an alcoholic beverage license is approved by the County, such alcohol will be served and allowed to consumed only (i) in the building in the area built for the bar and (ii) in any outside patio area fenced and used exclusively in conjunction with such interior bar area. Alcohol will not be sold or consumed in other places within the building or on the grounds.

3. Based on Applicant's discussions with the Village of Gilberts and the City of Elgin, the Applicant requests that the following provisions be included in the PUD ordinance adopted by the County:

(a) All of the uses of the Subject Property enumerated in Section 1 of this Exhibit 1, other than the sale and service of alcoholic beverages, are permitted uses under the existing underlying B-2 zoning classification of the Subject Property; ~~and~~

(b) In connection with any future expansion of uses as shown on the approved PUD Site Plan, the Owner shall, as a condition thereof, ensure that there is adequate parking as per the County's off-street parking ordinance.

~~(bc)~~ The Planned Unit Development approved by this ordinance was enacted solely to enable the Subject Property to be eligible for such liquor license, if any, as the County may hereafter agree



SITE PLAN

FUTURE EXTERIOR  
Lighting



**Mayor**

David J. Kaptain

**City Council**

Richard Dunne

Terry L. Gavin

Anna C. Moeller

Tish S. Powell

John Prigge

Carol J. Rauschenberger

Toby Shaw

F. John Steffen

**City Manager**

Sean R. Stegall

February 3, 2014

Mr. Keith Berkhout  
Zoning Planner  
Kane County Development and Community Services Department  
719 S. Batavia Avenue  
Geneva, Illinois 60134

RE: Intra Soccer, LLC Kane County Zoning Map Amendment Application, 37W950 Mason Road

Dear Mr. Berkhout:

The applicant for petition number 2013-4305, regarding the rezoning of the Intra Soccer, LLC facility at 37W950 Mason Road (hereinafter referred to as "the Application"), has represented to the city of Elgin that the Application will be revised to address the city's concerns. Those representations are documented within the revised Exhibit 1 "Requested Uses within the Proposed PUD District" dated February 2, 2014 and the revised site plan dated January 2014, both of which are attached to this letter.

In so long as the Application considered by Kane County includes and in all ways conforms to the two attachments to this letter, then the city of Elgin withdraws its objections to the Application originally sent to you by letter on January 3, 2014.

Thank you for giving us the opportunity to provide our comments and concerns.

Sincerely,

Marc S. Mylott, ALP  
Director of Community Development

**Attachments**

F:\CODE ADMIN\DS DIVISION\COUNTY & LOCAL GOVERNMENT PETITIONS\2014\MASON ROAD 37W950 SOCCER FACILITY\MASON RD 37950 ELGIN NO OBJECTION LETTER TO REZONING 2014-02-03.DOCX

# Village of Gilberts

Village Hall  
87 Galligan Road, Gilberts, IL 60136  
Ph. 847-428-2861 Fax: 847-428-2955  
www.villageofgilberts.com

February 4, 2014

Mr. Mark VanKerkhoff, AIA, Director  
Development & Community Services Department  
Kane County  
719 Batavia Avenue  
Geneva, IL 60134

RE: Intra Soccer LLC rezoning petition, 37W950 Mason Road

Dear Mr. VanKerkhoff:

Village of Gilberts withdraws its objections to the proposed rezoning of the Intra Soccer LLC facility at 37W950 Mason Road, conditional upon the changes to the petition reflected in the attached Exhibit 1 and the accompanying site plan, dated January 2014, being incorporated into the PUD ordinance for the subject property. The Applicant has represented that their application and the accompanying site plan have been amended to address the concerns raised in the Village's letter dated November 4, 2013. So long as those changes are incorporated into the PUD ordinance, the Village does not object to the proposed rezoning.

The Village also recommends attaching an additional condition of approval to the PUD ordinance: the adoption of an intergovernmental agreement (IGA) between the Village of Gilberts, Kane County and the Applicant to allow for the reimbursement of the Village's costs for police enforcement at the subject property. In the past, the Village's police officers were often dispatched to the subject property through the Village-County mutual aid agreement because they were closer to the scene than the Sheriff's officers. The proposed PUD will expand the list of uses that may again generate police calls to which the Village's officers will be expected to respond, even though the facility is outside of the Village's corporate limits.

To address this concern, the Village proposes the attached IGA as a mechanism for seeking reimbursement for its police costs directly from the Petitioner. The Village includes the County in this arrangement (i.e. IGA instead of a separate contract with the property owner) to reflect that the Gilberts Police Department would be dispatched by Kane County through mutual aid. The Village recognizes that the IGA would need to be adopted by the Kane County Board as an action separate from the rezoning/PUD ordinance. However, the Village asks that the IGA be referenced as a condition of approval of the PUD ordinance as the uses it will permit may establish the conditions generating additional police calls to the subject property.

Public Works Facility  
Finance & Building Departments  
73 Industrial Drive, Gilberts, IL 60136  
Ph. 847-428-4167 Fax: 847-551-3382

Police Department  
86 Railroad St., Gilberts, IL 60136  
Ph. 847-428-2954 Fax 847-428-4232

Thank you for considering the concerns of the Village of Gilberts and its residents. Please contact me at (847) 428-2861 or [rkeller@villageofgilberts.com](mailto:rkeller@villageofgilberts.com) with any questions.

Sincerely,

A handwritten signature in black ink that reads "Ray Keller". The signature is written in a cursive, slightly slanted style.

Ray Keller, ICMA-CM, AICP  
Village Administrator

Attachments

c: Mr. Andy Schcolnik, Intra Soccer LLC  
Mr. T.R. Smith, Kane County Board – District 9  
Mr. Kurt Kojzarek, Kane County Board - District 19  
Ms. Rebecca Gillam, Kane County Board – District 21  
Village President / Village Trustees

February 2, 2014

**EXHIBIT 1**  
Requested Uses within the Proposed PUD District

1. The Applicant requests that the PUD Ordinance allow the property to be used as set forth below:

I. Permitted Uses

- (a) The uses as permitted in the R1, R2, R3 and R4 (except subsections a and j of R4) and B1 Districts;
- (b) Other Indoor uses including:
  - i. Soccer
  - ii. Lacrosse
  - iii. Batting cages
  - iv. Sports instruction
  - v. Rock / wall climbing
  - vi. Archery
  - vii. Health and exercise programs, such as “Jazzercise,” aerobics, weight lifting and the like
  - viii. Sporting uses, including boxing and wrestling events
  - ix. Restaurants with sales/service of beer and wine
  - x. Weddings, birthday parties, dances, private parties, banquets and the like
  - xi. Dance schools and studios, including public dancing and dance halls
  - xii. Entertainment offering bands, orchestras, actors, musicians, magicians and other entertainers and entertainment groups (with all of these activities being held in the east end of the building only)
  - xiii. Dog agility training/dog/cat shows
  - xiv. Children’s activities, games centers, and entertainment structures
  - xv. Childcare / daycare activities
  - xvi. Video games and arcades (requires licensing with the County)
  - xvii. Lasertag and paintball games
  - xviii. Swimming pool
  - xix. Church services
  - xx. Public service events and speaker’s forums
  - xxi. Fashion shows
  - xxii. Movies and television viewing
  - xxiii. Craft and trade show
  - xxiv. Retail sales of goods and apparel
  - xxv. Offices
- (c) Other Outdoor Uses including:

- i. Sporting uses limited to soccer, lacrosse, baseball, golf, tennis, baseball, football and frisbee; listed above
- ii. ~~Up to two (2)~~ One (1) fenced patio areas used for food and beverage (including alcoholic beverage) consumption in conjunction with indoor food and bar area
- iii. Sports instruction pertaining to soccer, lacrosse, baseball, golf, tennis, baseball, football and frisbee;
- ~~iv. Lasertag and paintball facilities~~
- ~~v. Occasional carnivals limited to the east portion of the property;~~
- ~~vi. Occasional outdoor music and other entertainment limited to the east portion of the property;~~
- ~~vii. Swimming pool~~
- ~~viii. Outdoor lighting using only "dark sky lights" and when used shall conform to the most restrictive of the County's or nearby Village of Gilberts' or City of Elgin's performance standards.~~

## II. Special Uses

Those uses designated as "special uses" in the County's B-1 and B-2 zoning classifications.

(d) All "Adult" uses as defined in Section 3.1 of the Kane County Zoning Code, shall be prohibited.

(e) Residential uses shall not be allowed.

(f) Outdoor sound amplification shall not be used after 7 PM, and when used shall conform to the more restrictive of the County's or nearby Village of Gilberts' performance standards..

2. The Applicant proposes the following operations controls and conditions:

- (a) At all times when (i) adult sporting activities or parties are being conducted or (ii) when alcohol is being served, the operator shall have present on the Subject Property private security personnel to ensure that (A) alcohol is not brought onto the Subject Property from outside by patrons or others (with any alcohol to be limited to alcohol sold on the Subject Property pursuant to a license~~d~~ issued by the County) and (B) quarrels or other disturbances are prevented or immediately controlled and/or reported.
- (b) If an alcoholic beverage license is approved by the County, such alcohol will be served and allowed to consumed only (i) in the building in the area built for the bar and (ii) in any outside patio area fenced and used exclusively in conjunction with such interior bar area. Alcohol will not be sold or consumed in other places within the building or on the grounds.

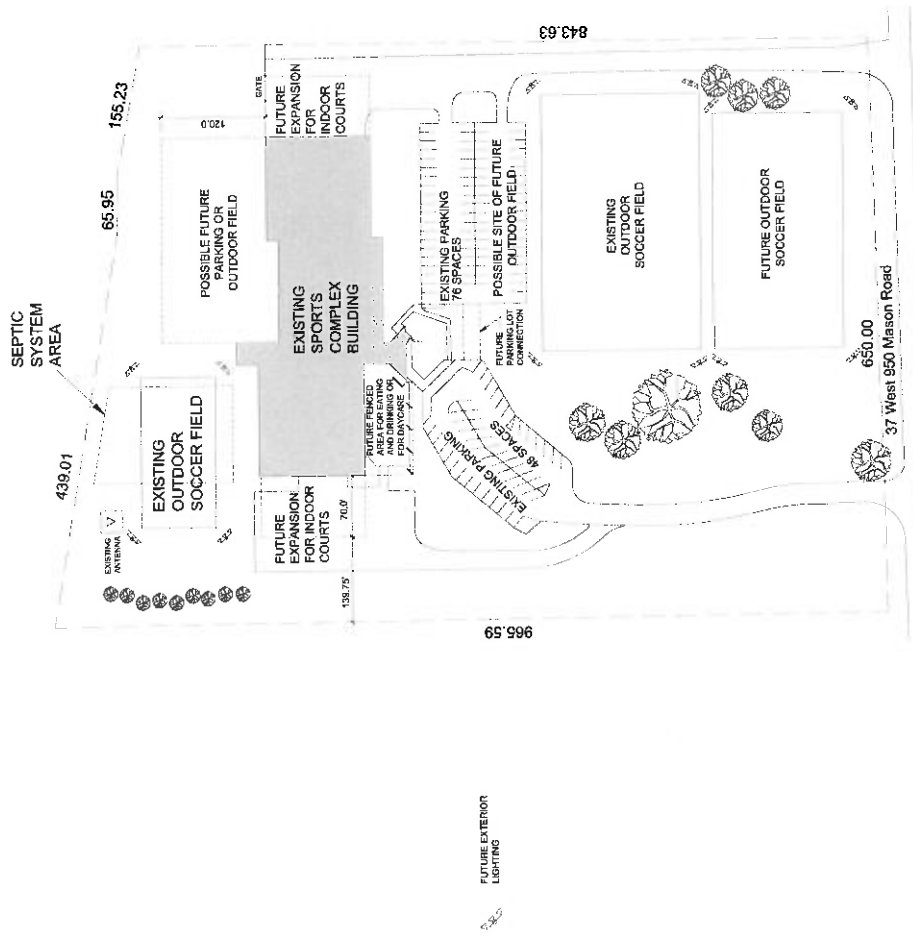


3. Based on Applicant's discussions with the Village of Gilberts and the City of Elgin, the Applicant requests that the following provisions be included in the PUD ordinance adopted by the County:

(a) All of the uses of the Subject Property enumerated in Section 1 of this Exhibit 1, other than the sale and service of alcoholic beverages, are permitted uses under the existing underlying B-2 zoning classification of the Subject Property; ~~and~~

(b) In connection with any future expansion of uses as shown on the approved PUD Site Plan, the Owner shall, as a condition thereof, ensure that there is adequate parking as per the County's off-street parking ordinance.

~~(b)~~ The Planned Unit Development approved by this ordinance was enacted solely to enable the Subject Property to be eligible for such liquor license, if any, as the County may hereafter agree



SITE PLAN

## Berkhout, Keith

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**From:** Ray Keller <RKeller@villageofgilberts.com>  
**Sent:** Tuesday, February 04, 2014 5:58 PM  
**To:** VanKerkhoff, Mark; Berkhout, Keith  
**Cc:** Peter Bazos; Marc Mylott; Gillam, Rebecca; Kojzarek, Kurt Robert; Smith, Thomas; Village Trustees; Rick Zirk; Lulves, Joseph; Patrick M Kinnally; Tappendorf, Julie  
**Subject:** RE: Gilberts response to 37W950 Mason Rd rezoning petition 2014-02-03

Mark,

As I explained previously, we did not ask to link the IGA to the issuance of a liquor license. That was something you proposed when we last spoke, even though I had expressed reservations about trying to apply conditions to a liquor license that went beyond the County's liquor code or state statute.

I had explained that the IGA request is linked to the zoning petition because the PUD's list of uses may generate the additional calls for police service. We are asking Kane County to be party to the agreement because:

- 1) If the facility owner doesn't pay the reimbursement, it would be a zoning violation enforceable by Kane County, in addition to being a contract violation enforceable by the Village.
- 2) Gilberts PD would be dispatched by Kane County on the basis of mutual aid with the County.

IGAs may include a non-governmental entity, so I don't understand that objection. The IGA idea has been in the works since November, so I can't comment on how or why your staff was not aware of its development. Your staff recommendation may not agree with this request, but I appreciate your entering the Village's response into the public record nonetheless.

You suggest that this is a topic to be also considered at the Feb. 10 Development Committee meeting. Is there a particular County staff person with whom we need to coordinate our request?

Thanks,  
Ray

Ray Keller, ICMA-CM, AICP  
Village Administrator  
Village of Gilberts  
847.428.2861  
[rkeller@villageofgilberts.com](mailto:rkeller@villageofgilberts.com)

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**From:** VanKerkhoff, Mark [<mailto:vankerkhoffmark@co.kane.il.us>]  
**Sent:** Tuesday, February 04, 2014 4:40 PM  
**To:** Ray Keller; Berkhout, Keith  
**Cc:** Peter Bazos; Marc Mylott; Gillam, Rebecca; Kojzarek, Kurt Robert; Smith, Thomas; Village Trustees; Rick Zirk; Lulves, Joseph; Patrick M Kinnally  
**Subject:** RE: Gilberts response to 37W950 Mason Rd rezoning petition 2014-02-03

Ray,

Thank you. I attempted to speak to you in person and left you a brief message, but this should help update all involved regarding the Village's request regarding the proposed IGA. As we discussed on the phone, I have sought legal opinions on the proposed IGA with the attorneys for the County Board and the Liquor Commission, which are separate entities.

The attorneys for the County Board and the Liquor Commission do not think this is an appropriate IGA for the following reasons:

- The proposed IGA involves a non-government entity
- The Liquor Commission is separate from the County Board, therefore the County Board should not enter into an IGA on behalf of the Liquor Commission
- The attorney for the Liquor Commission is of the opinion that the Liquor Commission should not agree to major aspects of the proposed IGA

For the reasons stated above, the amended petition will proceed without consideration of, or with conditions related to, the proposed IGA. This determination could have been made earlier if the County had been provided a draft of the proposed IGA prior to January 22, 2014. Unfortunately, the petitioner and the Village drafted the IGA without including the County.

The County's recommendation is that petitioner and the Village pursue alternative types of agreements regarding the reimbursement of costs for any 911 responses to the petitioner's property.

Your attachments will be shared at tonight's public hearing per your request, but are more relevant for the Development Committee, which will review the petition at their meeting on February 10, 2014.

Please let me, or our attorneys, know if you have any additional questions,

Mark D. VanKerkhoff, AIA, Director  
Kane County Development & Community Services Department  
719 South Batavia Avenue  
Geneva, Illinois 60134  
(630) 232-3451  
(630) 232-3411 (fax)  
[www.co.kane.il.us](http://www.co.kane.il.us)

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**From:** Ray Keller [mailto:RKeller@villageofgilberts.com]

**Sent:** Tuesday, February 04, 2014 4:17 PM

**To:** VanKerkhoff, Mark; Berkhout, Keith

**Cc:** Peter Bazos; Marc Mylott; Gillam, Rebecca; Kojzarek, Kurt Robert; Smith, Thomas; Village Trustees; Rick Zirk

**Subject:** Gilberts response to 37W950 Mason Rd rezoning petition 2014-02-03

Mark,

Here is the Village of Gilberts' response letter with attachments for the rezoning petition for the property at 37W950 Mason Road. I would appreciate your sharing this response for the record at tonight's public hearing. Please let me know if there are any additional questions or comments.

Thanks,  
Ray

Ray Keller, ICMA-CM, AICP  
Village Administrator  
Village of Gilberts  
847.428.2861  
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