

Planning & Community Development Department

22. The response to comment #16 is noted. Assistance provided for landscaping on private property is not a TIF eligible expense and could not be provided under the State of Illinois regulations for TIF assistance. The 16 surface parking stalls shown in the Village landscape concept are supplemented by the 13 interior garage parking stalls, whereby totaling 29 parking stalls and complying with the code required minimum 19 stalls. Unless the pavement for the un-used parking areas is removed and landscaping is installed in its place, a proportional amount of greenery is not provided and the landscape islands would still be required regardless of the fact that only 16 spaces are striped on the Village Landscape Concept (or the 17 stalls striped on the Paragon Landscape Proposal). Should approval of the modification to LUV Ord. #20-2022 be granted, the Village continues to recommend that the Village Landscape Concept be implemented and notes that no estimates have been provided for the work shown in the Village Landscape Concept.

Round 3 Response:

Applicable Code as Referenced in Response:

Section 6.16-1.2

Landscaped islands equal in area to at least one parking space, protected by durable materials, and containing at least one live shade tree at a minimum of four inches in diameter shall be located at the end of every twenty parking spaces or beneath every light pole, whichever results in the greater amount of planted islands. In addition, these islands shall be located at each end of all rows of car stalls. Open parking areas larger than four but smaller than twenty spaces shall provide proportional amounts of live greenery. No shade tree will be required on landscaped islands containing light poles. Design and plant selection shall be approved by the appropriate departments as directed by the Village Manager.

Comments:

Throughout this Plan Commission process, we sincerely feel as though we have made every effort to find reasonable solutions that both meet the needs of the Village, while working within the financial constraints of our business, in a South Corridor that falls more decrepit every day, all while navigating an economy with a highly uncertain future. Not only has the Village proven unwilling to work towards a compromise of any kind with a longstanding community-grown business (a business with a willingness to stay in Arlington Heights while others are not), the Village has also responded with loose interpretations of the applicable codes while requesting exorbitant, if not blatantly unreasonable, changes to the property in response to our numerous offers to make mutually beneficial improvements.

We have had several conversations regarding the code via e-mail with Sam Hubbard (the most important of which are included as an attachment to this round of responses) and despite Sam's interpretation and use of words that simply are not included within the code at all, we feel as though Section 6.16-1.2 couldn't be more clear in stating that by reducing the number of parking spaces to less than twenty, we will no longer require landscape islands on the property at all. This would allow us to (financially) proceed with razing Safety Town (the biggest eye sore on the property), replacing it with grass (a significantly more than proportional amount of live greenery), and planting four new shade trees in existing landscape beds throughout the property as proposed in the Paragon Landscape Plan. This should also mean that no variation request for the landscape islands is necessary at all. We feel as though we are being forced to apply for a Variation that is not required by code after we have come up with solutions that negate the need for additional Variations while also presenting a tangible opportunity to beautify the property immediately. We have executable quotes for this plan.

Regarding the Village Landscape Plan quote remark: We requested updated proposals from the same people who provided our existing quotes but given the drastically expanded scope and significantly higher level of complexity of the Village proposal, those contractors have not yet provided new proposals in return. We requested more time from Village Staff to obtain the quotes, but they mandated that we proceed with the process without the pending quotes. Without formal quotes, our expectation is that The Village Landscape Proposal will cost a minimum of 4 times more than the Paragon Landscape Plan. In addition, the Village Landscape Plan will prohibit any possibility of redevelopment for this property. Given the lack of progress with the 2018 Village proposed South Arlington Heights Corridor Plan, we cannot make this investment but feel our proposed plan is a better starting point. Our goal is help improve the overall characteristic of the Southern Corridor our investment cannot be on a whim or without careful planning and consideration.

If the Village continues to insist upon enforcing their interpretation of the code, insists on forcing us to apply for additional Variations, and the Village Board subsequently rules against us, the number of improvements to the property will simply be less significant than what we can accomplish by agreeing that the landscape islands are not necessary.

23. The response to comment #17 is noted. Please see #22 above. Unless both the pavement and striping for parking stalls in excess of 20 has been removed and proportional landscaping has been installed, a variation to waive the requirement for the curbed landscaped islands (which include a shade tree) is required.

Round 3 Response:

To further elaborate on our response to #22, this is not written anywhere within the code as the code solely refers to the number of parking spaces and the number of parking stalls. There is no mention of pavement or blacktop at all within the code cited above. Since we will now have less than 20 spaces, the code explicitly says landscape islands are not required, however, we are still willing to install

shade trees in the locations marked on the Paragon Landscape Plan. The suggested curbed islands not only pose a safety concern (expressed in writing and verbally to Village Staff throughout this process and consistently ignored), but also require funding which will only delay other needed improvements. Beyond the safety concerns and the fact that the code states we no longer need them, adding more concrete curbs will undoubtedly not visually enhance this property, do not visually enhance a property, but trees and green space as proposed on the Paragon Landscape Plan does.

25. The response to comment #20 is noted. With regards to the 3' tall screen, the Village maintains our position that the screen is required around all asphalt areas of the parking lot regardless of whether there is a striped parking space marked on the asphalt. As mentioned above, landscaping on private property is not a TIF eligible expense. With regards to the parking lot landscape islands and proportional greenery, please see the response to comment #22 and #23. With regards to parking, please see the response to comment #22 above. A striping plan for the parking lot can be provided at time of permit.

Round 3 Response:

Applicable Code as Referenced in Response:

6.15-1.2

a. All paved service areas abutting a residential district or street or off-street parking areas containing more than four parking spaces, shall be effectively screened on each side adjoining or fronting on any property situated in a residence district or any institutional premises or adjoining any public way by a well-maintained wall, fence, densely planted compact hedge designed to provide year round opacity or berm and hedge.

Comments:

Similarly to our response to #22 and as documented via the attached e-mails, by removing the parking stall next to Arlington Heights Road entirely, this should negate the need to plant another landscape screen along Arlington Heights Road. This is not an interpretation of the code but plainly what the code states above. By removing the Easternmost parking stall, we will no longer have a parking area containing 4 or more spaces that abuts, adjoins, or fronts any public way. All of the remaining stalls will be located on the sides of the building, well off of Arlington Heights Road.

For this reason, we again feel as though no Variation request is necessary at all for the 3' high landscape screen. To reiterate, the landscape screen we previously gained approval from the Village for, subsequently installed, installed a dedicated watering system for, was ultimately killed by the harsh conditions of winter paired with its proximity to Arlington Heights Road (Not because of lack of any reasonable maintenance as repeatedly suggested by the Village). Instead of repeating the same folly twice, we would much prefer to proceed with an agreeable solution that avoids further wasted funds from Paragon while also accomplishing the immediate beautification desire of the Village. It is

also worth noting that there is no existing precedent of a 3' landscape screen anywhere in the Southern Corridor, so coming to an agreement on what the code states would also not deviate from what the appearance of surrounding properties, and our plan to raze Safety Town and install four new shade trees in existing landscape beds would be a marked improvement to the property and the South Corridor at large.

Landscape Comments

1. The existing three foot tall screen has died and needs to be replaced. The landscaping bed must be maintained. If the code required screen is not replaced and maintained a variation is required. In addition, the four inch caliper shade tree within a landscape island must be provided at the ends of each parking row per the approved plan.

Round 3 Response:

To reiterate our response to #25, by removing the parking spaces abutting, adjoining, and fronting Arlington Heights Road, we no longer require a 3' landscape wall and therefore no Variation should be necessary. We hope to find a reasonable compromise to improve the property instead and we feel as though razing Safety Town and installing four new shade trees in existing landscape beds is a great solution.

In addition to the code indicating a screen is no longer necessary, it is not reasonable to expect to replace a landscape screen every year, nor is it reasonable to expand the boulevard to accommodate such a request. The existing landscape screen was designed and implemented by a professional landscaping company and was explicitly reviewed and approved by the Village Staff without consideration of its long-term viability. To our knowledge, this approved plan was executed exactly as specified and as approved by the Village Staff. Several landscape companies warned that the approved design would not survive a winter being so close to the main road and that is exactly what happened. We hope for a more realistic and mutually-beneficial solution, such as the elimination of Safety Town and the installation of four new shade trees in existing landscape beds.

Steve Pfaff

From: Hubbard, Sam <shubbard@vah.com> on behalf of Hubbard, Sam
Sent: Thursday, August 25, 2022 5:34 PM
To: Steve Pfaff
Cc: Kevin Polka
Subject: Re: Variations
Attachments: Dept Comments - Round 2.pdf; Landscape Concept - Village Proposal.pdf

Follow Up Flag: Follow up
Flag Status: Completed

Hi Steve,

The zoning code is full of regulations and circumstances that require interpretation of the rules, and the application of a single section of the code across multiple different situations. It cannot possibly spell out a specific and tailored method of application to each unique situation.

Historically, the Village has required the landscape screening around all paved areas of all a parking field, which includes drive aisles.

Accordingly, the Village standpoint is that the 3' tall screen is required along the full ROW frontage of the property that provides access to the parking areas. As such, you must request a variation to omit this requirement.

I have attached our 2 round of review comments to this email. Please prepare a point by point response to the comments, and if any revisions to the plans are proposed, please provide a set of revised plans for our review. In order to provide ample time for review of your response and any revisions to your proposal prior to the targeted Sept. 14th Plan Commission hearing date, please provide said response/revisions by Sept. 2nd (both in paper and electronic format - 3 paper sets are required).

Should you have any further questions, please let me know.

Sam Hubbard
Development Planner
Department of Planning and Community Development
Village of Arlington Heights
33 S. Arlington Heights Road
Arlington Heights, IL 60005

P: 847-368-5223
F: 847-368-5988

From: Steve Pfaff < >
Sent: Thursday, August 25, 2022 12:15 PM
To: Hubbard, Sam <shubbard@vah.com>

Cc: Kevin Polka
Subject: RE: Variations

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Sam,

Thanks for the reply. Your reply does make logical sense, but there is no mention of anything called a "parking lot drive aisle" in the code. How can we request a code Variation to something that is not written in the code or in any ordinance? If we submit this, I fear it will appear as though we are asking the Village to vote on something that isn't a rule.

If I'm just not seeing it, please let me know the exact sentence within the code that we are requesting variation from.

I keep reading it over again and to me the code is very clear: Landscape barriers apply only to parking stalls and parking areas containing four or more spaces which front or adjoin a public way. There will be no such area after those spots are removed.

That being said, I would agree with the paved area being classified a "service area" after the stall is removed, but we are not in a residential district so that is also inapplicable by the letter of the code.

I truly hope I am explaining the problem here clearly: I honestly cannot see any words written in 6.15-1.2a.1 for us to request variance from.

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From: Hubbard, Sam <shubbard@vah.com>
Sent: Wednesday, August 24, 2022 5:16 PM
To: Steve Pfaff
Cc: Kevin Polka
Subject: Re: Variations

Steve,

The variation applies based on the Paragon Landscape proposal. If for some reason the variation is deemed unnecessary, then when it comes time for the hearing, it doesn't need to be part of the discussion/request or staff report.

However, you still have parking areas on the north side and the south side of the building, with the parking lot drive aisles all across the site. If you want to actually remove the asphalt and replace it with greenspace

(rather than just eliminate the striping), then we wouldn't consider that area to be a part of the parking lot and the size of the required 3' landscape screen would be reduced.

-Sam

From: Steve Pfaff <____>
Sent: Wednesday, August 24, 2022 4:37 PM
To: Hubbard, Sam <shubbard@vah.com>
Cc: Kevin Polka <____>
Subject: RE: Variations

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Thanks for sending this over, Sam.

I want to make sure we're all on the same page here before I proceed with the letter because we are not actually requesting a variation to Chapter 28 6.15-1.2a.1 (3" Screen) of the code. Our goal is to completely eliminate the parking area fronting/abutting Arlington Heights Road to ensure this section doesn't apply to us at all. There should be no variation to request since we don't need that parking area/parking stall.

As you provided below, 6.15-1.2a.1 states:

All paved service areas abutting a residential district (*Does not apply in general*) or street or off-street parking areas containing more than four parking spaces (*Will no longer apply when East stall is removed*), shall be effectively screened on each side adjoining or fronting (*will not apply*) on any property situated in a residence district or any institutional premises or adjoining any public way by a well-maintained wall, fence, densely planted compact hedge designed to provide year round opacity or berm and hedge.

In summary, we are obviously not in a residential district and, more importantly, by eliminating the east side parking stall, we will no longer have adjoining, fronting, or abutting parking spaces on along Arlington Heights Road to have the need to screen.

I tried to convey that clearly in all of our responses and in the narrative so I apologize if it wasn't clear enough.

Can you please confirm that we can proceed without that variation request?

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From: Hubbard, Sam <shubbard@vah.com>
Sent: Wednesday, August 24, 2022 3:20 PM

To: Steve Pfaff <_____
Subject: Variations

Steve,

Got your voicemail. See below and let me know if you have any additional questions.

(Ord. #04-059)

6.15-1.2 New Landscaping Requirements.

28-71

REVISED 02/17/20

ZONING REGULATIONS

- a. All paved service areas abutting a residential district or street or off-street parking areas containing more than four parking spaces, shall be effectively screened on each side adjoining or fronting on any property situated in a residence district or any institutional premises or adjoining any public way by a well-maintained wall, fence, densely planted compact hedge designed to provide year round opacity or berm and hedge.
1. Such screening shall be three-feet high on the frontage of a public way, except that in the interests of safety, so the line of sight will not be obstructed, the minimum height shall be lowered at street intersections and driveways to not less than 18-inches as determined by the Director of Planning and Community Development or designee.
 2. Such screening shall be 6-foot high if adjoining a residential district or any institutional premises.
- b. Landscaped islands equal in area to at least one parking space, protected by durable materials, and containing at least one live shade tree at a minimum of four inches in diameter shall be located at the end of every twenty parking spaces or beneath every light pole, whichever results in the greater amount of planted islands. In addition, these islands shall be located at each end of all rows of car stalls. Open parking areas larger than four but smaller than twenty spaces shall provide proportional amounts of live greenery. Design and plant selection shall be as directed by the Director of Planning and Community Development or designee.

-Sam

To: Hubbard, Sam <shubbard@vah.com>; Kevin Polka <
Subject: RE: Round 2 Comments - As Provided on Aug. 25th

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Thank you, Sam.

~~As long as we have the ability to respond one more time and formally make the differing interpretations of the code a clear exhibit in the form of a Round 3 response, then we can proceed. You have no issues with the signage or letter as I previously provided besides the dates, correct?~~

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From: Hubbard, Sam <shubbard@vah.com>
Sent: Friday, October 21, 2022 11:56 AM
To: 'Steve Pfaff' <
Subject: RE: Round 2 Comments - As Provided on Aug. 25th

Hi Kevin,

The Village stance on the need for the referenced variation remains unchanged. The variation is necessary from our perspective and therefore must be included on the sign and notification letter.

The Village will be moving forward with the required legal notice publication for the Nov. 9th hearing, which the Village will need to send out this afternoon by 3:30pm. **Please confirm by 3:30pm today that you're able to complete the signage and notification letter obligations by the end of the day on Oct. 25th.**

Once we provide you with our 3rd round of review comments (by end of the day today), you can prepare a response that will be documented within the departmental reviews/petitioner response materials that will get transmitted to the Plan Commission and Village Board - with one caveat: your response must be received no later than October 30th to be considered and transmitted to the Plan Commission.

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From: kevin@pmcomfort.com <
Sent: Thursday, October 20, 2022 11:14 AM
To: 'Steve Pfaff' < > Hubbard, Sam <shubbard@vah.com>
Subject: RE: Round 2 Comments - As Provided on Aug. 25th

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Steve / Sam,

I think Steve's suggestion though great and very reasonable will likely not happen as Sam is speaking on behalf of the village. In light of the difference I would like to add this situation to the comments in the rounds. I think this is at the very core of the argument and when presented to the trustees it needs to be documented as such. I am all for another opinion if possible but then would nullify all need for this variation. I am not optimistic that the village will allow this seeing it will discredit the process.. However I think we need to have this put into the comments.

How do we add this into our comments.

I do not want to move forward until we can add the situation and the two interpretation to the comments

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From: Steve Pfaff < >
Sent: Thursday, October 20, 2022 10:27 AM
To: Hubbard, Sam <shubbard@vah.com>
Cc: Kevin Polka < >
Subject: RE: Round 2 Comments - As Provided on Aug. 25th

Sam,

*

Before we formally request Variations for items the code doesn't actually state we need, is it possible to get an unbiased opinion or interpretation? Is there precedent for this? We don't want to apply for either of these Variations because the code simply doesn't say what you are implying it does. The major difference between our "arguments" is that you are truly providing a completely new interpretation of the code as it is written, and I honestly don't feel as though I'm interpreting anything at all. The words are plainly written exactly as I interpret it and as you once again pasted below. Again, it plainly says that 4-20 spaces requires a proportional amount of live greenery. I'm not sure how there even could be room for interpretation on this other than to come to an agreement on the definition of "proportional." We are certainly not requesting a Variation for that. The same exact scenario applies to the 3' landscape screen requirement that now applies to "parking aisles," something also not mentioned in the code at all.

How can we get another opinion on this before proceeding? There doesn't seem to be a clear procedure on how to proceed with Variation request(s) that the Village insists upon but the property owner does not agree with based on what is written/published.

Thanks again and please let me know.

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From: Hubbard, Sam <shubbard@vah.com>
Sent: Thursday, October 20, 2022 8:22 AM
To: _____ 'Steve Pfaff' <
Subject: RE: Round 2 Comments - As Provided on Aug. 25th

Hi Kevin,

The section of code that Steve has inquired about is section 6.15-1.2b. I've included it below for reference.

- b. Landscaped islands equal in area to at least one parking space, protected by durable materials, and containing at least one live shade tree at a minimum of four inch diameter shall be located at the end of every twenty parking spaces or beneath every pole, whichever results in the greater amount of planted islands. In addition, these islands shall be located at each end of all rows of car stalls. Open parking areas larger than but smaller than twenty spaces shall provide proportional amounts of live greenery. Design and plant selection shall be as directed by the Director of Planning and Community Development or designee.

The Village has determined that since the Paragon landscape plan doesn't show the code required landscape islands at the ends of all rows of parking (which each must include a 4" caliper shade tree), then a variation from the above code section is required.

Sam Hubbard

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From: k <l >
Sent: Thursday, October 20, 2022 8:13 AM
To: Hubbard, Sam <shubbard@vah.com>; 'Steve Pfaff' < >
Subject: RE: Round 2 Comments - As Provided on Aug. 25th

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Steve,

It might be helpful for you to site the section of code you are referring to and provide a copy within this email and given the difference I think it will be important to add this within the comments of the rounds. Please provide within the email the copy of the section of the code which you are referring to.

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From: Hubbard, Sam <shubbard@vah.com>
Sent: Wednesday, October 19, 2022 10:15 PM
To: Steve Pfaff < >
Cc: Kevin Polka < >
Subject: Re: Round 2 Comments - As Provided on Aug. 25th

Hi Steve,

The Village does not agree with that interpretation. Simply removing the stripes of the parking spaces is not complete elimination of the parking spaces from a landscape perspective. If Paragon were to remove the entire pavement area along with the striping and plant a proportional amount greenery in that area (or elsewhere on the site), then we could verify for compliance with that code provision.

This spirit and intent of this code section is for properties that are tight on land and may not have sufficient space onsite to both 1) comply with the amount of code required parking while also 2) including the necessary code required landscape islands at the ends of all parking rows (which typically causes a reduction in parking). In these situations, provided that there are other areas on the site where a proportional amount of greenery can be installed, the parking lot landscape islands can be eliminated and parking spaces can be constructed/preserved in their place in order to comply with parking regulations. This is not the situation that Paragon is in, and unless the pavement is removed and replaced with proportional greenery (which would include shade trees), the Village interpretation is that the code section doesn't apply. The Variation is therefore necessary and must be included on the public notification letter and signage.



-Sam

From: Steve Pfaff <_____
Sent: Wednesday, October 19, 2022 5:41 PM
To: Hubbard, Sam <shubbard@vah.com>
Cc: Kevin Polka <_____
Subject: RE: Round 2 Comments - As Provided on Aug. 25th

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Sam,

For parking areas with fewer than 20 spaces, landscape islands are not required per the code. So what I'm specifically referring to is inclusion or exclusion of that 2nd variation request. If the code is followed then we will only need to establish what constitutes as "proportional amounts of live greenery" with no variation necessary.

Please confirm.



Thank you,

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From: Hubbard, Sam <shubbard@vah.com>
Sent: Wednesday, October 19, 2022 4:05 PM
To: Steve Pfaff <_____
Cc: Kevin Polka <_____
Subject: RE: Round 2 Comments - As Provided on Aug. 25th

Hi Steve,

Based on the attached Paragon Landscape plan, Paragon is requesting the variations as outlined in the attached letter.

Sam Hubbard
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From: Steve Pfaff <_____
Sent: Wednesday, October 19, 2022 4:00 PM
To: Hubbard, Sam <shubbard@vah.com>
Cc: Kevin Polka <_____
Subject: RE: Round 2 Comments - As Provided on Aug. 25th

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Hi Sam,



Thanks for following-up. My understanding is that I need to know exactly what variations we are requesting in order to finalize the sign and letter. I don't think I can do that until you respond.

Please correct me if I am mistaken about that.

Thanks again,

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From: Hubbard, Sam <shubbard@vah.com>
Sent: Wednesday, October 19, 2022 3:53 PM
To: Steve Pfaff <spfaff@pmcomfort.com>
Cc: Kevin Polka <kpolka@vah.com>
Subject: RE: Round 2 Comments - As Provided on Aug. 25th

Hi Steve,

I wanted to circle back with you on the required notification letter and signage.

The Village is preparing to proceed with a public hearing on your application at the Nov. 9th Plan Commission meeting. You will need to complete the signage and notification letter obligations no later than Oct. 25th. Please confirm that you will send out the letters and place the two signs on the property no later than end of the day on Oct. 25th.

I will follow up with you on Friday with the final Village review comments on your application. We will not need a response to our 3rd round of review comments and we will proceed with your request as outlined in the attached documents.

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From: Hubbard, Sam
Sent: Wednesday, October 12, 2022 2:18 PM
To: Steve Pfaff <[s](#)>
Cc: Kevin Polka <[k](#)>
Subject: RE: Round 2 Comments - As Provided on Aug. 25th

Hi Steve,

Thanks for sending. No hardcopies are needed. I will route these for review and provide you with our comments back by the end of next week or early the following week.

In the interim, we should be prepared to proceed at the Nov. 9th Plan Commission meeting date for a public hearing on this application. This would require your notification signs to be installed and notification letters mailed no later than Oct. 25th. Please be prepared to meet this deadline and I will circle back toward the end of next week to confirm that there is space for you on Nov. 9th PC agenda.

Of note, interior garage spaces count towards the Village's parking requirements, so while there may be only 16 exterior parking stalls shown on the Village's landscape concept, the property has well over the 19 spaces required by code when taking into account the interior spaces within the various buildings on the property.

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From: Steve Pfaff <[s](#)>
Sent: Wednesday, October 12, 2022 12:51 PM
To: Hubbard, Sam <shubbard@vah.com>
Cc: Kevin Polka <[k](#)>
Subject: RE: Round 2 Comments - As Provided on Aug. 25th

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