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ORDINANCE NO.F-0179

**AN ORDINANCE AMENDING ORDINANCE NO. E-4142 AND F-0081
REGARDING A SPECIAL USE PERMIT FOR A PLANNED UNIT
DEVELOPMENT ON A CERTAIN PIECE OF PROPERTY COMMONLY
KNOWN AS TIF SITE 2**

WHEREAS, on November 6, 1995, the City Council of the City of Wheaton (the "CITY") passed Ordinance No. E-4142, recorded on November 15, 1995 as document number R-95-161342 in the office of the DuPage County Recorder which amended the Wheaton Zoning Ordinance map and granted a special use permit for a planned unit development (the "PUD") on the property described in Exhibit A attached hereto, and made a part hereof (the "Subject Realty"); and

WHEREAS, on November 25, 1996, the City Council passed Ordinance No. F-0081, recorded on January 29, 1997 as document number R-97-13940 in the office of the DuPage County Recorder which amended certain provisions of the special use permit including the addition of property legally described as Exhibit B attached hereto and made a part hereof, with such property included in the definition of the Subject Realty; and

WHEREAS, the City has been requested to amend certain provisions of the special use permit including the addition of the property legally described in Exhibit C, attached hereto and made a part hereof, such property to be included in the definition of the Subject Realty; and

WHEREAS, pursuant to proper notice as required by the Illinois Municipal Code and the City's Zoning Ordinance, a public hearing was conducted by the Wheaton City Council on October 6, 1997 to consider the proposed amendment.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Wheaton, DuPage County, Illinois, pursuant to its home rule powers, as follows:

Section 1: Section 2A of the special use permit previously issued and granted for the construction and use of a planned unit development consisting of a residential condominium building, ground level retail facilities, and parking facilities on the Subject Realty is hereby amended as follows:

- A. All construction, maintenance and use of the project and Subject Realty shall be in substantial conformance with the following documents which are on file with the City Clerk:
 1. THE PLANS ENTITLED "WHEATON PLACE DEVELOPMENT GROUND FLOOR/SITE PLAN" DATED 9/12/97 PREPARED BY HIRSCH ASSOCIATES.
 2. BUILDING ELEVATION PLANS DATED 9/12/97 AND REVISED 9/23/97 PREPARED BY HIRSCH ASSOCIATES.
 3. PRELIMINARY LANDSCAPE PLAN DATED 9/23/97 PREPARED BY APPOLD DESIGN.

Section 2: Section 2B is amended as follows:

B. The construction and use of the Project shall be in compliance with any development agreement entered into by the City regarding the Subject Realty.

Section 3: Section 2C contained in Ordinance No. F-0081 is hereby deleted.

Section 4: Section 2D is hereby amended as follows:

D. The Declaration of Covenants, Conditions, Easements and Restrictions (the "Declarations") shall be subject to the approval of the City Attorney. The Declarations shall be submitted and approved prior to the issuance of a building permit for the residential structure, and, at a minimum, shall comply with Section 5.10.4.7 and 5.10.4.8 of the City's Zoning Ordinance.

The Declaration shall also provide for a monthly assessment representing the homeowners association pro rata share of the maintenance and operation of the garage structure, as agreed to between the City, and the developer of the Subject Realty.

The City and the homeowners association shall grant cross-access easements regarding the private parking located within the public garage. All easements and agreements shall be in a form acceptable to the City Attorney. The Declarations shall be recorded simultaneously with the final plat.

Section 5: The terms and conditions contained in any and all ordinances granting and/or amending the special use permit for the planned unit development with respect to the Subject Realty shall to the extent not expressly modified by the terms and conditions of this ordinance remain in full force and effect as therein provided.

Section 6: All ordinances or parts of thereof in conflict with the provisions of this ordinance are to the extent of such conflict expressly repealed.

Section 7: This ordinance shall become effective from and after its passage, approval, and publication in pamphlet form in the manner prescribed by law.



Mayor

ATTEST:



Emily M. Candalago
City Clerk

Roll Call Vote:

Ayes:

Councilman Gresk
Councilman Johnson
Councilwoman Johnson
Councilman Mork
Councilwoman Davenport
Mayor Pro Tem Eckhoff

Nays: None

Absent: Mayor Carr

Motion Carried Unanimously

Passed: October 20, 1997

Published: October 21, 1997