

ORDINANCE NO. F-0295

AN ORDINANCE OF THE CITY OF WHEATON, DUPAGE COUNTY, ILLINOIS,
AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO A CERTAIN
FIRST AMENDMENT TO REDEVELOPMENT AGREEMENT REGARDING
THE DOWNTOWN WHEATON REDEVELOPMENT PROJECT AREA AND
APPROVING A CHANGE TO THE PLANNED UNIT DEVELOPMENT
RELATING THERETO (WHEATON PLACE CONDOMINIUMS)

WHEREAS, the Mayor and City Council (the "CORPORATE AUTHORITIES") of the City of Wheaton, DuPage County, Illinois (the "CITY"), have heretofore determined that it is necessary and advisable for the public health, safety, welfare and convenience of residents of the CITY that the CITY undertake a redevelopment project and have heretofore approved a redevelopment plan (the "PLAN") and designated a redevelopment project area (the "PROJECT AREA") for that portion of the CITY known as the Downtown Wheaton Redevelopment Project Area, all as authorized by the Tax Increment Allocation Redevelopment Act, as amended (the "ACT"); and,

WHEREAS, the CITY has previously entered into a Redevelopment Agreement (the "AGREEMENT") dated November 17, 1997 with WHEATON WESLEY, L.L.C. (The "DEVELOPER") regarding a portion of said PROJECT AREA; and,

WHEREAS, the CITY and the DEVELOPER desire to amend the AGREEMENT; and,

WHEREAS, the First Amendment to Redevelopment Agreement is on file with the City Clerk of the CITY and available for public inspection; and,

WHEREAS, pursuant to Ordinance No. F-0179, the CORPORATE AUTHORITIES of the CITY granted an amended special use permit for a planned unit development (the "PUD") regarding the portion of the PROJECT AREA which is the subject of the AGREEMENT; and,

WHEREAS, the PUD, in part, provides for the construction of a residential condominium building with a maximum of forty (40) condominium units; and,

WHEREAS, the DEVELOPER has requested that the condominium building be permitted to have forty-three (43) units; and,

WHEREAS, said change will not result in any modification of the exterior building elevation plans submitted as part of the PUD; and,

WHEREAS, pursuant to Section 5.10.6 of the CITY'S Zoning Ordinance, the CORPORATE AUTHORITIES may approve minor changes to a PUD without a public hearing of such changes will be in substantial conformity with said PUD.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Wheaton, DuPage County, Illinois, a home rule municipality in the exercise of its home rule powers, as follows:

Section 1: That the Mayor and City Clerk be and the same are hereby authorized to execute the First Amendment to Redevelopment Agreement between the CITY and the DEVELOPER, in substantially the form attached hereto as "Exhibit A", and, by this reference, incorporated herein.

Section 2: That the CORPORATE AUTHORITIES hereby find that the requested change to the PUD will be in substantial conformity with the PUD and approve said change.

Section 3: That all ordinances and resolutions, or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

Section 4: That this Ordinance shall be in full force and effect from and after its adoption, approval and publication in pamphlet form as provided by law.

PASSED and APPROVED by the Mayor and City Council of the City of Wheaton, DuPage County, Illinois, this Seventh day of December, 1998.

ATTEST:

Emily M. Cansler
City Clerk

James Carr
Mayor

Ayes:

Roll Call Vote:

Councilwoman Davenport
Councilman Eckhoff
Councilman Gresk
Mayor Carr
Councilman Johnson
Councilwoman Johnson
Councilman Mork

Nays:

None

Absent:

None

Motion Carried Unanimously

Passed: December 7, 1998

Published: December 8, 1998

FIRST AMENDMENT TO REDEVELOPMENT AGREEMENT

This FIRST AMENDMENT TO REDEVELOPMENT AGREEMENT (hereinafter referred to as the ("FIRST AMENDMENT")) is made and entered into as of the 17th day of December, 1998, by and between the CITY OF WHEATON, a municipal corporation and home rule unit, organized and incorporated under the laws of the State of Illinois (hereinafter referred to as the "CITY"), 303 W. Wesley Street, Wheaton, Illinois 60187 and Wheaton Wesley, L.L.C., an Illinois limited liability company (hereinafter referred to as the "DEVELOPER") c/o Centrum Properties, Inc., 225 West Hubbard Street, 4th Floor, Chicago, Illinois 60610; the CITY and the DEVELOPER being sometimes hereinafter referred to individually as the "PARTY" and collectively as the "PARTIES".

RECITALS

A. Pursuant to the terms of a Redevelopment Plan entitled "Downtown Wheaton Redevelopment Project Report", dated May 17, 1993 (hereinafter referred to as the "REDEVELOPMENT PLAN"), the CITY designated a certain area within its municipal limits for redevelopment and revitalization.

B. The REDEVELOPMENT PLAN recited that the Downtown Wheaton Redevelopment Project Area (the "AREA") is characterized by conditions which warrant the designation of the entire area as a "conservation area" within the definitions set forth in the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1, et seq., as amended (hereinafter referred to as the "ACT"). The REDEVELOPMENT PLAN further recited that CITY was desirous of having the AREA redeveloped and revitalized as a development for commercial and/or

residential uses to serve the needs of the community and to produce increased tax revenues for the community.

C. The CITY has the authority to promote the health, safety and welfare of its inhabitants, to prevent the onset of blight while instituting conservation measures, and to encourage private development in order to enhance the local tax base, and to enter into contractual agreements with third parties for the purpose of achieving the aforesaid purposes.

D. The CITY and the DEVELOPER have previously entered into that certain Redevelopment Agreement (the "ORIGINAL AGREEMENT") dated November 17, 1997.

E. The ORIGINAL AGREEMENT provides, in part, for the construction of a residential condominium building with a maximum of forty (40) condominium units.

F. The DEVELOPER has requested that the ORIGINAL AGREEMENT be amended to allow a maximum of forty-three (43) condominium units.

H. It is, therefore, necessary to amend the ORIGINAL AGREEMENT.

THEREFORE, in consideration of the foregoing premises and in further consideration of the mutual covenants, conditions and agreements herein contained, the PARTIES hereto agree as follows:

ARTICLE I

INCORPORATION OF RECITALS

The PARTIES hereby confirm the truth and validity of their respective representations and recitations set forth in the foregoing recitals and do further acknowledge that they are material to this FIRST AMENDMENT. Such recitals are hereby incorporated into and made a part of this FIRST AMENDMENT as though they were fully set forth in this Article I.

ARTICLE IIINTEGRATION OF ORIGINAL AGREEMENT

The provisions of this FIRST AMENDMENT shall be deemed by the PARTIES to be fully integrated into the ORIGINAL AGREEMENT. The ORIGINAL AGREEMENT shall remain in full force and effect except to the extent that the ORIGINAL AGREEMENT is expressly modified by the terms of this FIRST AMENDMENT. Should any provision of the ORIGINAL AGREEMENT conflict with any provision of this FIRST AMENDMENT, the provisions of the FIRST AMENDMENT shall control.

ARTICLE IIIAMENDMENT

The ORIGINAL AGREEMENT is hereby amended by deleting all references to forty (40) condominium units and in lieu thereof, inserting references to forty-three (43) condominium units.

IN WITNESS WHEREOF, the PARTIES hereto have caused this AGREEMENT to be executed on or as of the day and year first above written.

CITY OF WHEATON, an Illinois
municipal corporation,

By: 

Mayor

ATTEST:


City Clerk

WHEATON WESLEY, L.L.C., an
Illinois limited liability company,

By: _____

Its: _____