

ORDINANCE NO. F-0532

AN ORDINANCE GRANTING A SPECIAL USE PERMIT FOR A PLANNED UNIT
DEVELOPMENT FOR A RESTAURANT AND RETAIL BUILDING ON A
CERTAIN PIECE OF PROPERTY COMMONLY LOCATED AT
THE NORTHWEST CORNER OF LEASK LANE AND BUTTERFIELD ROAD -
GUINNESS DEVELOPMENT L.L.C./SWEET TOMATOES

WHEREAS, written application has been made to issue a special use permit for the construction and use of a planned unit development consisting of a 7,830 square-foot free-standing restaurant building and a 13,400 square-foot multi-tenant retail building on the 4.12 acre property legally described herein within the city limits of Wheaton, Illinois ("City"), and commonly located at the northwest corner of Leask Lane and Butterfield Road; and

WHEREAS, pursuant to notice as required by the Illinois Municipal Code and the City Zoning Ordinance, a public hearing was conducted by the Board of Zoning Appeals on October 10, 2000, to consider the request; and the Wheaton Board of Zoning Appeals has recommended approval of the issuance of the special use permit for a planned unit development.

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

Section 1: The following-described property has been, and continues to be zoned and classified in the C-5 Planned Commercial District zoning classification:

LOT 2 IN BRIGHTON GARDENS RESUBDIVISION OF LOT 12 IN DANADA FARMS EAST UNIT 1, BEING A SUBDIVISION OF PART OF SECTION 28 AND THE NORTH HALF OF SECTION 33, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 10, 1987 AS DOCUMENT R87-157209, IN DUPAGE COUNTY, ILLINOIS.

PIN 05-28-403-030

This property is commonly located at the northwest corner of Leask Lane and Butterfield Road ("subject property").

Section 2: Pursuant to the Findings of Fact determined by the Wheaton Board of Zoning Appeals, a special use permit is hereby granted and issued for the construction and use of a planned unit development on the subject property, consisting of a 7,830 square-foot free-standing restaurant building and a 13,400 square-foot multi-tenant retail building, and in full compliance with the following conditions, restrictions, and requirements:

A. The plans entitled "Site Plan, C-1", prepared by Northwestern Engineering Consultants, P.C., Buffalo Grove, Illinois, dated August 30, 2000; "Exterior Elevations, A-4.1", "Exterior Elevations, A-4", prepared by Tarlos & Associates,

Architects/Engineers, Irvine, California, dated August 29, 2000; sign plans entitled "Directional Sign" and "Monument Ground Sign", prepared by Crossroads Design Inc., dated August 31, 2000; the plans entitled, "Exterior Proposed Retail Development", dated August 31, 2000, prepared by Crossroads Design, Inc.; and the "Preliminary Landscape Plan", prepared by Camiros, Ltd., landscape architects, Chicago, Illinois, dated September 1, 2000.

- B. A final engineering plan shall be submitted to include the following:
 - 1. A sidewalk leading from the public walk along Butterfield Road to the proposed buildings and a modification of the parking area in front of the proposed retail building to eliminate the "dead end" aisle.
 - 2. The site lighting and photometric plan shall be provided in accordance with the City's Zoning Ordinance.
 - 3. A public sidewalk along the subject property frontage at a location approved by the Director of Engineering. The sidewalk shall extend from the existing Butterfield Road entrance to the subject property to the proposed pedestrian bridge structure located on the western edge of the subject property. The final engineering plan shall identify the appropriate location and elevation for the pedestrian bridge structure. If the public sidewalk needs to be placed on private property, the owner of the subject property shall provide a public sidewalk easement to the City.
- C. The petitioner shall pay to the City of Wheaton one-half of the costs associated with constructing a pedestrian bridge across the creek on the westerly portion of the subject property (\$26,000.00). The petitioner shall receive a credit against this payment amount for the cost associated with constructing a sidewalk across the property east of Lot 1 (\$4,000.00), which was required by City Ordinance No. F-0049. The \$22,000.00 (\$26,000.00 less \$4,000.00) payment required by this paragraph shall be paid to the City prior to the issuance of any permits associated with construction on the subject property.
- D. Both buildings shall contain similar common elements, materials, and colors in order to be compatible with one another.
- E. Any rooftop mechanical units shall be fully screened by a structural element of the building.
- F. Due to the operational characteristics of the restaurant, the garbage dumpster may be located at the front of the restaurant; screening of the dumpster shall be provided by additional landscaping or by an enclosure constructed of similar materials as the proposed building and incorporated into the main structure of the building; all subject to the reasonable approval of the City.

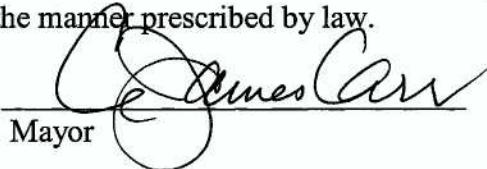
- G. The construction and placement of any dumpsters and dumpster enclosures, other than those illustrated on the site plan, shall be subject to the reasonable approval of the City.
- H. The owner of the subject property shall maintain all landscaping and plantings on the subject property so that the number, quality, and character of the landscaping shall not be less than that which is illustrated on the approved landscape plan. In the event any landscaping, plantings, or vegetation on the subject property dies, in whole or in part, at any time, the owner shall, forthwith, replace the non-viable landscaping vegetation and/or plantings with reasonably similar substitutes of original size or larger, as directed by the City.
- I. In the event owner from time to time elects to subdivide any portion of the Subject Property for the purpose of separating ownership and/or complying with owner's lender's requirements, each such subdivision shall be reviewed for approval by the City Council only. Any such subdivision shall be approved by the City Council provided all necessary cross easements for access and parking are provided on the face of each such subdivision plat so as to insure the continuing compliance of each Building located upon the Subject Property with all of the standards and conditions of this Ordinance.
- J. This special use permit, and the conditions, restrictions, and requirements recited herein, shall be considered a declaration of restrictive covenants and shall be binding upon the subject property and its owner, its successors, assigns, and grantees; this ordinance shall be recorded in the office of J. P. Carney, Recorder of Deeds,
DuPage County, Illinois.

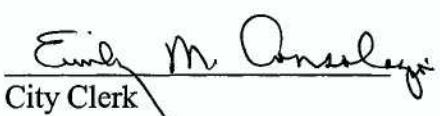
By application for, and receipt of, any site development or building permit and the commencement of construction of any improvements on the subject property, owner, for himself/itself, his/its successors, assigns, and grantees, thereby agrees to all terms and conditions of this ordinance and declares this ordinance to constitute a covenant running with, and binding, the subject property, in perpetuity.

Section 3: All ordinances or parts of ordinances in conflict with these provisions are repealed.

Section 4: This ordinance shall become effective from and after its passage, approval, and publication in pamphlet form in the manner prescribed by law.

ATTEST:


Mayor


Emily M. Ansley
City Clerk

Roll Call Vote:

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

Nays: None
Absent: None

Motion Carried Unanimously

Passed: November 6, 2000
Published: November 7, 2000