

## ORDINANCE NO. F-0858

**AN ORDINANCE AMENDING ORDINANCE F-0771, "AN ORDINANCE AMENDING ORDINANCE NO. F-0340, ORDINANCE E-3822, AND ORDINANCE NO. E-3730, AMENDING THE WHEATON ZONING MAP AND GRANTING A SPECIAL USE PERMIT FOR A PLANNED UNIT DEVELOPMENT ON A CERTAIN PIECE OF PROPERTY COMMONLY KNOWN AS LOT 30 IN KEIM'S RESUBDIVISION OF WHEATON PARK MANOR (NORTHEAST CORNER OF ROOSEVELT AND COUNTY FARM ROADS) - TARGET STORES" DATED OCTOBER 14, 1991**

**WHEREAS**, on October 14, 1991, the City of Wheaton, Illinois ("City"), enacted City Ordinance No. E-3730 recorded on November 8, 1991, as Document No. R91-149804, at the DuPage County Recorder of Deeds Office, "AN ORDINANCE AMENDING THE WHEATON ZONING ORDINANCE MAP AND GRANTING A SPECIAL USE PERMIT FOR A PLANNED UNIT DEVELOPMENT ON A CERTAIN PIECE OF PROPERTY COMMONLY KNOWN AS LOT 30 IN KEIM'S RESUBDIVISION OF WHEATON PARK MANOR (NORTHEAST CORNER OF ROOSEVELT AND COUNTY FARM ROAD) - TARGET STORES", DATED OCTOBER 14, 1991 ("original ordinance"), authorizing the issuance of a special use permit for a planned unit development for the construction and use of an approximately 270,000 square foot shopping center on the property legally described on Exhibit "A" attached hereto and commonly known as Lot 30 in Keim's Resubdivision of Wheaton Park Manor (northeast corner of Roosevelt and County Farm Roads), Wheaton, Illinois; and

**WHEREAS**, on September 21, 1992 the City enacted Ordinance No. E-3822 recorded on October 16, 1992 as Document No. R-92-197934 at the DuPage County Recorder of Deeds Office, "AN ORDINANCE AMENDING THE CITY OF WHEATON ORDINANCE NO. E-3730 AN ORDINANCE AMENDING THE WHEATON ZONING MAP AND GRANTING A SPECIAL USE PERMIT FOR A PLANNED UNIT DEVELOPMENT ON A CERTAIN PIECE OF PROPERTY COMMONLY KNOWN AS LOT 30 IN KEIM'S RESUBDIVISION OF WHEATON PARK MANOR (NORTHEAST CORNER OF ROOSEVELT AND COUNTY FARM ROADS) - TARGET STORES" DATED OCTOBER 14, 1991 - S.F. KOHL'S STORE ("first amending ordinance") which amended the site plan and building envelope plan referred to in section 3 of the original ordinance to accommodate a 74,964 square foot Kohl's store in lieu of a 65,000 grocer on the plan; and

**WHEREAS**, on May 3, 1999 the City enacted Ordinance No. F-0340 recorded on June 11, 1999 as Document No. R1999-131161 at the DuPage County Recorder of Deeds Office, "AN ORDINANCE AMENDING ORDINANCE NO. E-3822, AN ORDINANCE AMENDING THE CITY OF WHEATON ORDINANCE NO. E-3730 AN ORDINANCE AMENDING THE WHEATON ZONING MAP AND GRANTING A SPECIAL USE PERMIT FOR A PLANNED UNIT DEVELOPMENT ON A CERTAIN PIECE OF PROPERTY COMMONLY KNOWN AS LOT 30 IN KEIM'S RESUBDIVISION OF WHEATON PARK MANOR (NORTHEAST CORNER OF ROOSEVELT AND COUNTY FARM ROADS) - TARGET STORES" DATED OCTOBER 14, 1991 - S.F. KOHL'S STORE ("second amending ordinance") which further amended the site plan and building envelope plan referred to in section 3 of the original ordinance, and the first amending ordinance to accommodate a 65,000 square foot grocer in lieu of the 65,000 square foot multi tenant retail space on the plan; and

**WHEREAS**, on November 4, 2002 the City enacted Ordinance No. F-0771 recorded on January 16, 2003 as Document No. R2003-019124 at the DuPage County Recorder of Deeds Office, "AN ORDINANCE AMENDING ORDINANCE F-0340 AN ORDINANCE AMENDING ORDINANCE NO. E-3822, AN ORDINANCE AMENDING THE CITY OF WHEATON ORDINANCE NO. E-3730 AN ORDINANCE AMENDING THE WHEATON ZONING MAP AND GRANTING A SPECIAL USE PERMIT FOR A PLANNED UNIT DEVELOPMENT ON A CERTAIN PIECE OF PROPERTY

COMMONLY KNOWN AS LOT 30 IN KEIM'S RESUBDIVISION OF WHEATON PARK MANOR (NORTHEAST CORNER OF ROOSEVELT AND COUNTY FARM ROADS) – TARGET STORES" DATED OCTOBER 14, 1991 – S.F. KOHL'S STORE ("third amending ordinance"), which further amended the site plan and building envelope plan referred to in Section 3 of the original ordinance to accommodate a 14,410 square foot building expansion of Kohl's Department Store and the removal of 59 parking spaces

**WHEREAS**, following the enactment of the original ordinance, the first amending ordinance, second amending ordinance and the third amending ordinance, an application has been made to further amend the site plan and building envelope plan referred to in Section 3 of the original ordinance to accommodate a 5,400 square foot expansion of the existing Target store and the removal of 26 parking spaces; and

**WHEREAS**, pursuant to notice as required by the Illinois Municipal Code and the City of Wheaton Zoning Ordinance, a public hearing was conducted by the Wheaton Planning and Zoning Board on November 11, 2003 to consider the planned unit development amendment and the Wheaton Planning and Zoning Board has recommended approval of the 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: An amendment to the original ordinance, the first amending ordinance, the second amending ordinance, and the third amending ordinance is hereby granted to accommodate a 5,400 square foot building expansion of the existing Target store legally described herein as Exhibit "A", "Subject Property" and the removal of 26 parking spaces in substantial compliance with the plans entitled "*Wheaton Target T-0838, Site Construction Drawings, dated 10/15/03, prepared by Woolpert LLP, Downers Grove, IL and Exterior Elevations, dated 10/7/03, prepared by KKE Architects, Minneapolis, MN*" and subject to the following conditions and requirements:

1. The applicant shall revise the proposed Landscape Plan to expand the size of the parking lot landscape islands along the main drive aisle in order to accommodate the planting of additional trees. The revised Landscape Plan shall be subject to the reasonable approval of the Director of Planning and Economic Development.
2. Target Corporation shall enter into a Fire Lane Designation and Enforcement Agreement with the City in substantial compliance with Exhibit "B".
3. In the event a traffic control signal is approved for construction at the intersection of County Farm Road and Williams Street, at any time in the future, the owner of the Subject Property shall be financially responsible for a portion of the cost of the design, construction and maintenance, including utility costs, of the traffic control signal. The owner's share of the cost of the traffic control signal shall be based on the number of motor vehicles traveling through the intersection and generated by their use when compared to the total number of motor vehicles going to or coming from the subject property, the commercial property on the west side of County Farm Road between Fapp Circle and Roosevelt Road and the adjacent property as evidenced by a traffic study. All other motor vehicles, generally using County Farm Road, shall not be included in this cost determination. The traffic study shall be subject to the reasonable approval of the director of engineering.

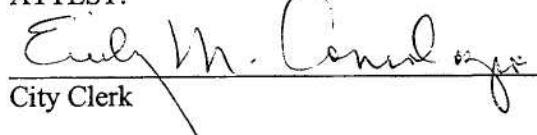
Section 2: In all other respects, the terms and provisions of the original ordinance are ratified and remain in full force and effect.

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

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

  
\_\_\_\_\_  
James Carr  
Mayor

ATTEST:

  
\_\_\_\_\_  
Evelyn M. Caudle  
City Clerk

Roll Call Vote

Ayes: Councilman Mouhelis  
Councilman Bolds  
Councilwoman Corry  
Councilman Johnson  
Mayor Carr  
Councilwoman Johnson  
Councilman Mork

Nays: None

Absent: None

Motion Carried Unanimously

Passed: November 17, 2003  
Published: November 18, 2003

**EXHIBIT "A"**

LOT 1 OF TARGET SUBDIVISION, BEING PART OF THE SOUTH HALF OF SECTION 18,  
TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN,  
ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 10, 1992 AS DOCUMENT  
R92-241058 IN DUPAGE COUNTY, ILLINOIS. P.I.N. 05-18-317-001

Commonly known as 601 S. County Farm Road, Wheaton, IL 60187.

Ordinance No. F-0858

**EXHIBIT "B"**

**FIRE LANE DESIGNATION AND ENFORCEMENT AGREEMENT**

THIS AGREEMENT is made and entered into this 17<sup>TH</sup> day of November, 2003, by and between the City of Wheaton, an Illinois Municipal Corporation, 303 W. Wesley Street, Wheaton, Illinois 60189 (hereinafter referred to as "CITY") and Target Corporation (hereinafter referred to as "OWNER(S)"), OWNER(S) of the property located south of Fapp Circle, north of Roosevelt Road, east of County Farm Road, and west of Fapp Circle, within the corporate limits of the City of Wheaton, Illinois (hereinafter referred to as "Subject Property"), and which is legally described below:

(See Attached Exhibit A)

**RECITALS**

WHEREAS, the OWNER(S) desire to establish Fire Lanes upon the Subject Property to improve the health and safety of the citizens of Wheaton; and

WHEREAS, the CITY believes that it is in the best interests of the public health and safety that Fire Lanes be established, maintained and enforced upon the Subject Property.

NOW, THEREFORE, in consideration of the mutual covenants and obligations contained herein, the OWNER(S) and CITY agree to the following in regards to the Subject Property:

1. The CITY Fire Chief, Chief of Police or their designated representative and OWNER(S), shall identify the specific Fire Lane locations within the Subject Property which shall, pursuant to the terms of this Agreement and Ordinance No. F-\_\_\_\_\_, be regulated. The specific locations of the Fire Lane(s) to be enforced shall be as set forth on the Site Plan ("Plan") attached hereto and fully incorporated into this Agreement as Exhibit "B". The CITY Fire Chief,

Chief of Police or their designated representative and OWNER(S) or designated representative may from time to time mutually agree to amend the Fire Lane(s) location(s) as set forth in the Site Plan. At such time, the Site Plan shall be amended and appended to this Agreement as an Amended Exhibit "B".

2. The OWNER(S) are responsible for providing any required pavement markings.

3. The OWNER(S), at their sole expense, shall be responsible for obtaining, erecting and maintaining the appropriate signage in accordance with applicable CITY and State of Illinois regulations and specifications.

4. The CITY shall inspect and approve the signage prior to entering into this Agreement. The CITY Fire Chief, Chief of Police or their designated representative may require additional signage and/or pavement markings, if it is later determined that the inspected and approved signage does not provide adequate notification of the established fire lanes.

5. Upon execution of this Agreement, the CITY will enforce the Fire Lane parking and standing prohibitions and the Fire Lane maintenance requirements contained in sections 70-355 and 30-2 of the Wheaton City Code in regards to the Subject Property. No "special duty" to third persons shall be imposed by this Agreement. The CITY's enforcement obligation shall be legally the same as it is with all other ordinances.

6. This Agreement may be terminated by either party by providing not less than thirty (30) days notice to the other party of the intention to terminate this Agreement.

7. This Agreement shall be assignable by OWNER(S) to their successors in interest upon the sale or lease of the Subject Property.

8. The OWNER(S) hereby agrees to release and hold harmless, indemnify and defend (including the payment of all costs and attorneys' fees) the CITY, its Officers, Agents and Employees, in connection with any and all actions or claims for any loss, damage, personal injury or death occurring as a consequence of the performance of this Agreement.

9. The sole remedy available to the OWNER(S), upon any breach of this Agreement by the CITY, shall be the termination of the Agreement. It is of the essence of this Agreement that the CITY shall not be liable in money damage for any breach of this Agreement.

10. Whenever notice to the CITY is required, it shall be addressed to:

City Clerk

Ordinance No. F-0858

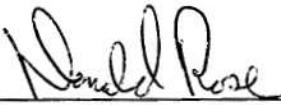
City of Wheaton  
303 West Wesley Street  
Wheaton, IL 60189-0727

Whenever notice to the Owner is required, it shall be addressed to:

Target Corporation  
1000 Nicollet Mall, TPN-12B  
Minneapolis, MN 55403

IN WITNESS WHEREOF, the parties hereto have executed this instrument by their duly authorized officers of the day and year first above written.

CITY OF WHEATON, ILLINOIS, a Municipal Corporation

BY:   
Donald Rose  
City Manager

ATTEST:   
Emily M. Convalaga  
City Clerk

BY: \_\_\_\_\_

ATTEST: \_\_\_\_\_