

1/2017

ORDINANCE NO. F-1014

**AN ORDINANCE AMENDING ORDINANCE NO. F-0950
ENTITLED "AN ORDINANCE REZONING PROPERTY FROM I-1
INSTITUTIONAL TO R-7 RESIDENTIAL AND GRANTING A SPECIAL USE
PERMIT FOR A RESIDENTIAL PLANNED UNIT DEVELOPMENT FOR
PROPERTY BORDERED BY THE ILLINOIS PRAIRIE PATH RIGHT OF WAY,
WASHINGTON STREET, NAPERVILLE ROAD, WILLOW AVENUE AND REBER
STREET (NATIONAL LOUIS UNIVERSITY/COURTHOUSE PROPERTY)"**

WHEREAS, the City of Wheaton, Illinois ("City") has heretofore adopted Ordinance No. F-0950 entitled "AN ORDINANCE REZONING PROPERTY FROM I-1 INSTITUTIONAL TO R-7 RESIDENTIAL AND GRANTING A SPECIAL USE PERMIT FOR A RESIDENTIAL PLANNED UNIT DEVELOPMENT FOR PROPERTY BORDERED BY THE ILLINOIS PRAIRIE PATH RIGHT OF WAY, WASHINGTON STREET, NAPERVILLE ROAD, WILLOW AVENUE AND REBER STREET (NATIONAL LOUIS UNIVERSITY/ COURTHOUSE PROPERTY)" ("PUD Ordinance") pertaining to the rezoning and planned unit development approval ("PUD") for the project commonly known and referred to herein as "Courthouse Square", as proposed for development by Courthouse Land Development, LLC ("Developer") on the real estate legally described in Exhibit "A" attached to the PUD Ordinance and attached hereto and incorporated herein ("Property");

WHEREAS, Developer has filed an application with the City to vacate a portion of the Naperville Road right-of-way hereinafter defined as the Vacated ROW and to amend the PUD Ordinance as follows:

- (a) To amend the PUD Site Plan to:
 - (i) add the real estate legally described in Exhibit "B" attached hereto and incorporated herein ("ComEd Parcel") as a part of the PUD and the Property, as contemplated under Section 3.b. of the PUD Ordinance;
 - (ii) approve the construction, use and maintenance of townhome dwelling units on the ComEd Parcel;
 - (iii) delete from the PUD and the Property the real estate legally described in Exhibit "C" attached hereto and incorporated herein ("Relocated ComEd Parcel");
 - (iv) add additional ground level parking west of the State's Attorneys building;
and

- (v) provide for the improvement of the vacated portion of the Naperville Road right-of-way depicted and legally described in Exhibit "D" attached hereto and incorporated herein ("Vacated ROW"), as contemplated in Section 3.a. of the PUD Ordinance.
- (b) Rezone the ComEd Parcel from I-1 Institutional to R-7 Residential, with a special use for planned unit development as a part of the PUD.
- (c) Rezone the Relocated ComEd Parcel from R-7 Residential, with a special use for residential planned unit development, to I-1 Institutional, with a special use for a private or public utility substation.
- (d) Rezone the Vacated ROW to R-7 Residential, with a special use for planned unit development as a part of the PUD.
- (e) Add business and professional offices within the State's Attorneys building only as a permitted use under the PUD, in addition to the use of a portion of said building as an amenities facility for the residential development, as provided for in Section 4.b. of the PUD Ordinance.

WHEREAS, Developer has submitted to the City an amended Site Plan for the PUD entitled "Site Plan with Upper Level Parking" prepared by Antunovich Associates, dated February 14, 2005 and consisting of one sheet, a copy of which is attached hereto and incorporated herein as Exhibit "E" ("Amended Site Plan"); and

WHEREAS, pursuant to notices required by the Illinois Municipal Code and Wheaton Zoning Ordinance, a Public Hearing was conducted by the Wheaton City Council on February 28, 2005 to consider the above stated requests of Developer; and

WHEREAS, the Corporate Authorities of the City have reviewed Developer's written application as well as the Amended Site Plan and find them in substantial conformance with the purpose and intent of the PUD Ordinance and such other ordinances and regulations of the City as are applicable to Courthouse Square.

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. REZONING: The following parcels are hereby rezoned in the manner hereinafter provided:

- (a) ComEdParcel: The ComEd Parcel is hereby rezoned from I-1 Institutional to R-7 Residential and is granted a Special Use Permit for a residential planned unit development by incorporating said parcel into and making it a part of the PUD and the PUD Ordinance.

- (b) Relocated ComEd Parcel: The Relocated ComEd Parcel is hereby rezoned from R-7 Residential, with a special use for residential planned unit development, to I-1 Institutional, and is granted a Special Use Permit for a private or public utility substation. Further, the Relocated ComEd Parcel is hereby removed and excluded from the PUD.
- (c) Vacated ROW: That portion of the Naperville Road right-of-way depicted and described on Exhibit "D", as vacated, is hereby vacated. In furtherance of and to effectuate said right-of-way vacation, Developer shall submit to the City a recordable mylar of the plat of vacation containing provisions and covenants thereon granting access easements in favor of the City and the Wheaton Park District over and across the path improvements to be constructed thereon by Developer and establishing Developer's and its assignee's responsibility, at its expense, for the perpetual maintenance and care of the improvements constructed thereon in compliance with applicable provisions of the PUD Ordinance and pursuant to language approved by the City attorney, which approval shall not be unreasonably withheld. Said plat of vacation shall be executed by the Mayor and City Clerk and recorded with and as a part of this Ordinance. The Vacated ROW is hereby rezoned to R-7 Residential and granted a Special Use Permit for a residential planned unit development by incorporating said parcel into and making it a part of the PUD and the PUD Ordinance.

SECTION 2. PERMITTED USE FOR OFFICE: The PUD Ordinance is hereby amended to allow the operation and maintenance of business and professional offices within the existing building referred to in the PUD Ordinance as the State's Attorneys building, located within the southwesterly portion of the Property, provided that a portion of the State's Attorneys building shall be utilized as an amenities facility for the residential development, and further provided said building shall maintain the architectural integrity of the existing structure, all as provided in Section 4.b. of the PUD Ordinance.

SECTION 3. AMENDED SITE PLAN: The Amended Site Plan attached hereto as Exhibit "E" is hereby approved and substituted in place of the Site Plan identified in Section 2.b. of the PUD Ordinance. The original Site Plan referred to in said Section 2.b. is hereby deleted from the PUD Ordinance. All references in the PUD Ordinance to the Site Plan and/or the PUD Plans shall be construed to mean or include, as the case may be, the Amended Site Plan.

SECTION 4. AMENDED LEGAL DESCRIPTION: The legal description of the Property being the subject of the PUD Ordinance as referred to in Section 1 and defined in Exhibit "A" of the PUD Ordinance is hereby amended by substituting the legal description set forth in Exhibit "F" attached hereto and incorporated herein ("Amended Property Description"). All references to the Property in the PUD Ordinance and this Ordinance shall hereafter mean the real estate legally described in the Amended Property Description.

SECTION 5. CONDITIONAL APPLICATION: The provisions of this Ordinance pertaining to and affecting the ComEd Parcel and Relocated ComEd Parcel, including, without limitation, the rezoning thereof and amendment of the Site Plan with respect thereto, have been requested by Developer and approved by the Corporate Authorities conditioned upon Developer and the legal owner of the ComEd Parcel consummating the closing on the exchange and conveyance of legal title and/or lease hold interests to said parcels between them, or their respective nominees ("ComEd Exchange"), on or before June 30, 2006 ("ComEd Exchange Deadline"). In the event the ComEd Exchange has not been consummated by the expiration of the ComEd Exchange Deadline the zoning of the ComEd Parcel and the Relocated ComEd Parcel shall automatically revert to I-1 Institutional and R-7 Residential, with a special use for residential planned unit development, respectively, as existed immediately preceding the rezoning thereof effectuated hereunder ("Zoning Reversion"). If at any time prior to the ComEd Exchange Deadline Developer determines that the ComEd Exchange will not occur, Developer shall have the right, but not the obligation, to accelerate the Zoning Reversion by filing an application with the City to further amend the Amended Site Plan and the PUD so as to accommodate the development of Courthouse Square consistent with the reconfigured and redefined Property resulting from the failure of the ComEd Exchange to occur. In no event, however, shall the occurrence of the Zoning Reversion, whether by passage of time or application filed by Developer, in any manner or form alter, modify, terminate or limit any of the rights, privileges and entitlements pertaining to the PUD and the PUD Plans as granted under and provided for in the PUD Ordinance and this Ordinance with respect to all portions of the Property other than the ComEd Parcel and Relocated ComEd Parcel. If the ComEd Exchange does not occur the Developer shall grant, or cause to be granted, to ComEd an easement over the vacated portion of Naperville Road to provide reasonable egress and ingress to ComEd's substation located on the ComEd Parcel.

SECTION 6. CONFORMANCE OF PUD PLANS: The PUD Plans, other than the Site Plan, as identified in Section 2 of the PUD Ordinance, shall remain in full force and effect, subject to such modifications thereto as may be necessary or appropriate to conform with the Amended Site Plan.

SECTION 7. CONFLICT: The PUD Ordinance and all terms and provisions contained therein shall remain and continue in full force and effect, subject to the amendments thereto set forth in this Ordinance. Any conflict between the terms and provisions of the PUD Ordinance and the terms and provisions of this Ordinance, shall be resolved by applying the terms and provisions of this Ordinance. All ordinances and parts of ordinances, other than the PUD Ordinance, in conflict with the provisions of this Ordinance are hereby repealed to the extent of any such conflict or inconsistency.

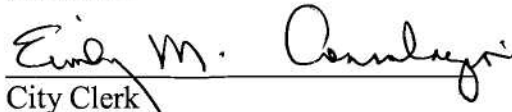
SECTION 8. DEFINED TERMS: All defined terms utilized in this Ordinance shall have the same meaning as established under the PUD Ordinance unless otherwise expressly provided in this Ordinance.

1657
SECTION 9. EFFECTIVE DATE: This Ordinance shall become effective after its passage, approval and publication in pamphlet form in the manner described by law.



Mayor

ATTEST:



City Clerk

Ayes:

Roll Call Vote:

Councilman Mork
Councilman Bolds
Councilwoman Corry
Councilman Johnson
Mayor Carr
Councilwoman Johnson

Nays:

None

Absent:

Councilman Mouhelis

Motion Carried Unanimously

Passed: March 21, 2005
Published: March 22, 2005

EXHIBIT "A"**LEGAL DESCRIPTION OF PROPERTY****PARCEL 1:**

ALL THAT PROPERTY DESCRIBED AS THE COURTHOUSE BLOCK IN WARREN L. WHEATON'S 2ND ADDITION TO WHEATON IN SECTION 16, TOWNSHIP 39 NORTH, RANGE 10 EAST, OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 28, 1869, AS DOCUMENT NO. 11488, (EXCEPTING THEREFROM A 14 FOOT STRIP OFF THE ENTIRE NORTHERN SIDE OF THE COURTHOUSE BLOCK WHICH WAS CONVEYED TO DUPAGE COUNTY BY DOCUMENT NUMBER R65-26607 IN THE OFFICE OF THE RECORDER, DUPAGE COUNTY, ILLINOIS).

PARCEL 2:

LOT 1 (EXCEPT THAT PART DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF LOT 1; THENCE SOUTH ALONG THE WEST LINE OF LOT 1, 50 FEET; THENCE EAST AND PARALLEL TO THE SOUTH LINE OF LOT 1, 100 FEET; THENCE NORTH AT RIGHT ANGLES TO LAST DESCRIBED LINE 75.29 FEET, MORE OR LESS, TO THE NORTHERLY LINE OF LOT 1; THENCE SOUTHWESTERLY ALONG THE NORTHERLY LINE OF LOT 1, 105.27 FEET, MORE OR LESS, TO THE NORTHWEST CORNER OF LOT 1 AND THE POINT OF BEGINNING) IN BURCKAL'S ASSMT PLAT OF PART OF BLOCK 1 IN WARREN L. WHEATON'S SECOND ADDITION TO WHEATON, BEING A SUBDIVISION IN THE WEST ½ OF THE SOUTHEAST ¼ AND THE EAST ½ OF THE SOUTHWEST ¼ OF SECTION 16, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT OF SAID BURCKAL'S ASSMT PLAT RECORDED MARCH 4, 1933 AS DOCUMENT 334382, IN DUPAGE COUNTY, ILLINOIS.

F. 1014

EXHIBIT "B"**LEGAL DESCRIPTION OF COMED PARCEL**

PART OF LOT 1 IN BURCKAL'S ASSMT PLAT OF PART OF BLOCK 1 IN WARREN L. WHEATON'S SECOND ADDITION TO WHEATON, BEING A SUBDIVISION IN THE WEST HALF OF THE SOUTHEAST QUARTER AND THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 16, TOWNSHIP 39 NORTH, RANGE 10 EAST, OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT OF SAID BURCKAL'S ASSMT PLAT RECORDED MARCH 4, 1933, AS DOCUMENT 334382, IN DUPAGE COUNTY, ILLINOIS, BEING DESCRIBED AS FOLLOWS:.
BEGINNING AT THE NORTHWEST CORNER OF LOT 1; THENCE SOUTH ALONG THE WEST LINE OF LOT 1, 50 FEET; THENCE EAST AND PARALLEL TO THE SOUTH LINE OF LOT 1, 100 FEET; THENCE NORTH AT RIGHT ANGLES TO LAST DESCRIBED LINE 75.29 FEET, MORE OR LESS, TO THE NORTHERLY LINE OF LOT 1; THENCE SOUTHWESTERLY ALONG THE NORTHERLY LINE OF LOT 1, 105.27 FEET, MORE OR LESS, TO THE NORTHWEST CORNER OF LOT 1 AND THE POINT OF BEGINNING.

EXHIBIT "C"LEGAL DESCRIPTION OF RELOCATED COMED PARCEL

PART OF LOT 1 IN BURCKAL'S ASSESSMENT PLAT OF PART OF BLOCK 1 IN WARREN L. WHEATON'S SECOND ADDITION TO WHEATON, BEING A SUBDIVISION IN THE WEST HALF OF THE SOUTHEAST QUARTER AND THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 16, TOWNSHIP 39 NORTH, RANGE 10 EAST, OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT OF SAID BURCKAL'S ASSESSMENT PLAT, RECORDED MARCH 4, 1933, AS DOCUMENT NUMBER 334382 IN THE OFFICE OF THE RECORDER, DUPAGE COUNTY, ILLINOIS, BEING BOUNDED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHERN LINE OF SAID LOT 1, SAID POINT BEING 73.20 FEET WESTERLY OF (AS MEASURED ALONG THE NORTHERN LINE OF SAID LOT 1) THE NORTHEASTERN CORNER OF SAID LOT 1; THENCE NORTH 74 DEGREES 47 MINUTES 09 SECONDS EAST (BASIS OF BEARINGS – ILLINOIS STATE PLANE COORDINATE EAST ZONE – NAD 1927) ALONG THE NORTHERN LINE OF SAID LOT 1 A DISTANCE OF 73.20 FEET TO THE NORTHEASTERN CORNER OF SAID LOT 1; THENCE SOUTH 00 DEGREES 45 MINUTES 27 SECONDS EAST ALONG THE EASTERN LINE OF SAID LOT 1 A DISTANCE OF 82.85 FEET; THENCE SOUTH 88 DEGREES 19 MINUTES 56 SECONDS WEST PARALLEL WITH THE SOUTHERN LINE OF SAID LOT 1 A DISTANCE OF 56.00 FEET; THENCE NORTH 64 DEGREES 32 MINUTES 35 SECONDS WEST A DISTANCE OF 15.56 FEET TO A POINT THAT IS SOUTH 01 DEGREES 40 MINUTES 04 SECONDS EAST 58.60 FEET FROM THE POINT OF BEGINNING; THENCE NORTH 01 DEGREES 40 MINUTES 04 SECONDS WEST PERPENDICULAR TO THE SOUTHERN LINE OF SAID LOT 1 A DISTANCE OF 58.60 FEET TO THE **POINT OF BEGINNING**, CONTAINING 0.119 ACRES, MORE OR LESS.

EXHIBIT "D"**LEGAL DESCRIPTION OF VACATED ROW**

ALL THAT PART OF NAPERVILLE STREET LYING NORTHERLY OF THE NORTHERN RIGHT-OF-WAY LINE OF LIBERTY DRIVE (SOUTH RAILROAD STREET) AND LYING SOUTHERLY OF THE SOUTHERN RIGHT-OF-WAY LINE OF MICHIGAN STREET (COLLEGE AVENUE) AS DEDICATED IN WARREN L. WHEATON'S 2ND ADDITION TO WHEATON IN SECTION 16, TOWNSHIP 39 NORTH, RANGE 10 EAST, OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 28, 1869, AS DOCUMENT NO. 11488.

F-1014

EXHIBIT "E"

AMENDED SITE PLAN

1658

100

0 5 10 15

**COURTHOUSE
SQUARE**

Planning, Design

Site Plan with
Upper Level Parking

Scale
1" = 20' 0"

North Arrow

Legend



F- 1014

EXHIBIT "F"AMENDED PROPERTY DESCRIPTION

PARCEL 1:

ALL THAT PROPERTY DESCRIBED AS THE COURTHOUSE BLOCK IN WARREN L. WHEATON'S 2ND ADDITION TO WHEATON IN SECTION 16, TOWNSHIP 39 NORTH, RANGE 10 EAST, OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 28, 1869, AS DOCUMENT NO. 11488, (EXCEPTING THEREFROM A 14 FOOT STRIP OFF THE ENTIRE NORTHERN SIDE OF THE COURTHOUSE BLOCK WHICH WAS CONVEYED TO DUPAGE COUNTY BY DOCUMENT NUMBER R65-26607 IN THE OFFICE OF THE RECORDER, DUPAGE COUNTY, ILLINOIS).

PARCEL 2:

LOT 1 IN BURCKAL'S ASSMT PLAT OF PART OF BLOCK 1 IN WARREN L. WHEATON'S SECOND ADDITION TO WHEATON, BEING A SUBDIVISION IN THE WEST ½ OF THE SOUTHEAST ¼ AND THE EAST ½ OF THE SOUTHWEST ¼ OF SECTION 16, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT OF SAID BURCKAL'S ASSMT PLAT RECORDED MARCH 4, 1933, AS DOCUMENT 334382, IN DUPAGE COUNTY, ILLINOIS.

EXCEPTING THEREFROM THE FOLLOWING DESCRIBED TRACT: **BEGINNING** AT A POINT ON THE NORTHERN LINE OF SAID LOT 1, SAID POINT BEING 73.20 FEET WESTERLY OF (AS MEASURED ALONG THE NORTHERN LINE OF SAID LOT 1) THE NORTHEASTERN CORNER OF SAID LOT 1; THENCE NORTH 74 DEGREES 47 MINUTES 09 SECONDS EAST (BASIS OF BEARINGS – ILLINOIS STATE PLANE COORDINATE EAST ZONE – NAD 1927) ALONG THE NORTHERN LINE OF SAID LOT 1 A DISTANCE OF 73.20 FEET TO THE NORTHEASTERN CORNER OF SAID LOT 1; THENCE SOUTH 00 DEGREES 45 MINUTES 27 SECONDS EAST ALONG THE EASTERN LINE OF SAID LOT 1 A DISTANCE OF 82.85 FEET; THENCE SOUTH 88 DEGREES 19 MINUTES 56 SECONDS WEST PARALLEL WITH THE SOUTHERN LINE OF SAID LOT 1 A DISTANCE OF 56.00 FEET; THENCE NORTH 64 DEGREES 32 MINUTES 35 SECONDS WEST A DISTANCE OF 15.56 FEET TO A POINT THAT IS SOUTH 01 DEGREES 40 MINUTES 04 SECONDS EAST 58.60 FEET FROM THE POINT OF BEGINNING; THENCE NORTH 01 DEGREES 40 MINUTES 04 SECONDS WEST PERPENDICULAR TO THE SOUTHERN LINE OF SAID LOT 1 A DISTANCE OF 58.60 FEET TO THE **POINT OF BEGINNING**.

PARCEL 3:

ALL THAT PART OF NAPERVILLE STREET LYING NORTHERLY OF THE NORTHERN RIGHT-OF-WAY LINE OF LIBERTY DRIVE (SOUTH RAILROAD STREET) AND LYING SOUTHERLY OF THE SOUTHERN RIGHT-OF-WAY LINE OF MICHIGAN STREET (COLLEGE AVENUE) AS DEDICATED IN WARREN L. WHEATON'S 2ND ADDITION TO WHEATON IN SECTION 16, TOWNSHIP 39 NORTH, RANGE 10 EAST, OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 28, 1869, AS DOCUMENT NO. 11488.