

ORDINANCE NO. F-1138

AN ORDINANCE AMENDING THE WHEATON ZONING MAP BY GRANTING A SPECIAL USE PERMIT FOR PLANNED UNIT DEVELOPMENT ON PROPERTY COMMONLY KNOWN AS 0N625, 0N645, 0N659, 0N689 and 1975 GARY AVENUE/ARMBRUST PROPERTIES, LLC and GARY AVENUE MEDICAL, LLC

WHEREAS, written application has been made to amend the Zoning Map, which is attached to and forms a part of the Zoning Ordinance of Wheaton, Illinois, by the issuance of a special use permit for a Planned Unit Development in order to demolish the existing structures located on the subject property and to construct a mixed-use development consisting of a two-story, 25,000 square foot medical office building, a one-story, 10,000 square foot retail building, and a one-story, 6,500 square foot bank building with three drive-through banking lanes and one drive-through ATM lane together with a request to re-subdivide the subject property into three separate lots, all on the property legally described herein within the city limits of Wheaton, Illinois, and commonly known as 0N625, 0N645, 0N659, 0N689 and 1975 Gary Avenue; and

WHEREAS, the property legally described herein is the subject of City Ordinance No. F-1050 which authorized the signing of an annexation agreement among the City, Armbrust Properties, LLC and Gary Avenue Medical, LLC dated June 6, 2005 ("Annexation Agreement"); and

WHEREAS, pursuant to notice as required by the Illinois Municipal Code and the Wheaton Zoning Ordinance, a public hearing was conducted by the Wheaton City Council on January 9, 2006, to consider the zoning amendment, subdivision and issuance of the special use permit;

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 is the subject and has been and continues to be zoned and classified in the C-5 Planned Commercial District:

THAT PART OF THE NORTHEAST QUARTER OF SECTION 8, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED BY COMMENCING AT THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 8 AND RUNNING THENCE SOUTH ALONG THE WEST LINE OF THE NORTHEAST QUARTER OF SECTION 8, 1092.2 FEET FOR A PLACE OF BEGINNING; THENCE CONTINUING SOUTH ALONG SAID LINE 178.3 FEET TO A POINT 33 FEET SOUTH OF THE NORTH LINE OF JEROME AVENUE EXENDED; THENCE EAST PARALLEL WITH AND 33 FEET SOUTH OF THE NORTH LINE OF JEROME AVENUE EXTENDED 339.5 FEET; THENCE NORTH PARALLEL WITH THE WEST LINE OF WHEATON PARK TERRACE, 178.3 FEET; THENCE WEST 330.75 FEET TO THE PLACE OF BEGINNING IN DUPAGE COUNTY, ILLINOIS.

THAT PART OF THE NORTHEAST QUARTER OF SECTION 8 TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED BY COMMENCING AT THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 8 AND RUNNING THENCE SOUTH ALONG THE WEST LINE OF SAID NORTHEAST QUARTER, 665.7 FEET FOR A PLACE OF BEGINNING; THENCE EASTERLY PARALLEL WITH THE SOUTH LINE OF THE TRACT CONVEYED BY DOCUMENT 315804, 339.75 FEET; THENCE SOUTH PARALLEL WITH THE WEST LINE OF SAID NORTHEAST QUARTER, 128.3 FEET; THENCE WESTERLY PARALLEL WITH THE SAID SOUTH LINE OF THE PROPERTY CONVEYED BY DOCUMENT 315804, 339.75 FEET TO THE WEST LINE OF SAID NORTHEAST QUARTER; THENCE NORTH ALONG SAID WEST LINE, 128.3 FEET TO THE PLACE OF BEGINNING, IN DUPAGE COUNTY, ILLINOIS.

LOTS 1 AND 2 OF JOSEPH DIETER'S FIRST PLAT OF SURVEY OF PART OF THE NORTHEAST QUARTER OF SECTION 8, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, REFERENCE BEING HAD TO THE RECORDING OF SAID PLAT ON MAY 3, 1950 AS DOCUMENT 591964, IN DUPAGE COUNTY, ILLINOIS.

THAT PART OF THE NORTHEAST QUARTER OF SECTION 8, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED BY COMMENCING AT THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 8 AND RUNNING THENCE SOUTH ALONG THE WEST LINE OF SAID NORTHEAST QUARTER, 794 FEET FOR A PLACE OF BEGINNING; THENCE EASTERLY 339.75 FEET; THENCE SOUTH PARALLEL WITH THE WEST LINE OF SAID NORTHEAST QUARTER 128.3 FEET; THENCE WESTERLY, 339.75 FEET TO THE WEST LINE OF SAID NORTHEAST QUARTER; THENCE NORTH ALONG SAID WEST LINE 128.3 FEET TO THE PLACE OF BEGINNING, IN DUPAGE COUNTY, ILLINOIS.

P.I.N. 05-08-200-002, 05-08-200-003, 05-08-200-004, 05-08-200-005, 05-08-200-006

This property is commonly known as 0N625, 0N645, 0N659, 0N689 and 1975 Gary Avenue, Wheaton, IL 60187 ("subject property").

Section 2: The City makes and determines the following Findings of Fact:

- A. The 1999 Comprehensive Plan designates the subject property for General Commercial Centers & Related Uses. The purpose of the General Commercial land use category is to provide for commercial activities that are auto oriented and not dependent upon adjacent uses. The final PUD plan complies with the land use designation of the Comprehensive Plan.
- B. The site plan is consistent with the Annexation Agreement and previously approved

Conceptual PUD Plan.

- C. The special use will not be detrimental to the public health, safety, morals, comfort, convenience, and general welfare;
- D. The special use will not be injurious to the uses and enjoyment of other property in the immediate vicinity for the purposes already permitted and will not substantially diminish property values within the neighborhood;

Section 3: A special use permit is hereby issued to allow for the demolition of the existing structures located on the subject property and the construction and use of a Planned Unit Development for a mixed-use development consisting of a two-story, 25,000 square foot medical office building, a one-story, 10,000 square foot retail building, and a one-story, 6,500 square foot bank building with three drive-through banking lanes and one drive-through ATM lane on the subject property in full compliance with the plans prepared by PPKS Architects, dated January 27, 2006, entitled "Site Plan", "Medical Building Elevations", "Retail Elevations", "Bank Elevations", "Site Elevations", and in further compliance with the following conditions, restrictions, and requirements:

- 1. The terms and provisions of the Annexation Agreement which is incorporated into this Ordinance as though fully recited herein.
- 2. All landscaping and planting to be implemented on the subject property shall conform to a Final Landscape Plan to be submitted for approval by the Director of Planning and Economic Development. The Final Landscape Plan shall generally conform to the Preliminary Landscape Plan prepared by Gary R. Weber Associates, dated November 21, 2005.
- 3. 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 Final 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 landscape vegetation
- 4. 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, successors, assigns, and grantees; this ordinance shall be recorded in the office of the Recorder of Deeds, Du Page 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.

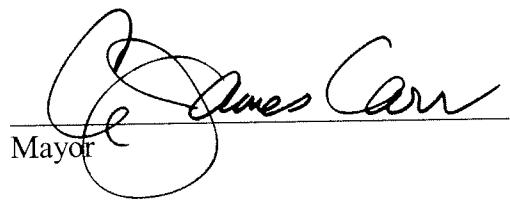
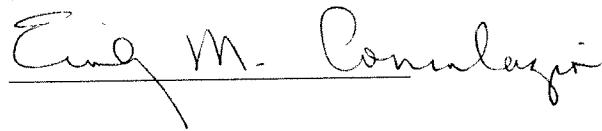
- 5. The owner shall enter into a Fire Lane Designation and Enforcement Agreement with the City in substantial compliance with Exhibit "A".

6. A Final Plat of Subdivision shall be submitted to the Wheaton City Council for approval in substantial compliance with the Subdivision Plat entitled "Gary Avenue Development Subdivision," dated November 11, 2005, prepared by Webster, McGrath & Ahlberg LTD., Wheaton. Cross access easements shall be recorded on the Subject Property at the expense of the owner, to allow for ingress and egress between Lots 1, 2 and 3. The cross access easements shall be shown on the Final Plat of Subdivision of the subject property, or, if owner elects to create said cross easements pursuant to a Reciprocal Easement Agreement recorded against the subject property then said Final Plat shall cross reference such Reciprocal Easement Agreement, and in either event said documents shall be subject to the reasonable approval of the Wheaton City Attorney.
7. The demolition of the existing structures located on the Subject Property shall be authorized by this ordinance. Demolition of said structures, however, shall be carried out in conformance with Wheaton City Code Chapter 22, Article XIV, with the exception that the Owner shall not be required to wait 30 days prior to commencing demolition from the date of submitting a demolition permit application to the Building and Code Enforcement Department.

Section 4: All ordinances or parts of ordinances in conflict with these provisions are repealed.

Section 5: This ordinance shall become effective from and after its passage, approval, and publication in pamphlet form in the manner prescribed by law.

ATTEST:



James Carr
Mayor

Ayes:

Roll Call Vote
Councilman Bolds
Councilwoman Corry
Councilman Johnson
Mayor Carr
Councilman Levine
Councilman Mouhelis
Councilman Seuss

Nays:

None

Absent: Councilman Johnson
Councilman Seuss

Motion Carried Unanimously

Passed: February 21, 2006
Published: February 22, 2006

