

ORDINANCE NO. F-1248

AN ORDINANCE OF THE CITY OF WHEATON, DU PAGE COUNTY, ILLINOIS,
AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO A CERTAIN FIRST
AMENDMENT TO DEVELOPMENT AGREEMENT REGARDING THE CITY OF
WHEATON COURTHOUSE REDEVELOPMENT PROJECT AREA

WHEREAS, the City Council of the City of Wheaton, DuPage County, Illinois (the "City"), has 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 and designated a redevelopment project area (the "Project Area") for that portion of the City known as the City of Wheaton Courthouse Redevelopment Project Area, all as authorized by the Tax Increment Allocation Redevelopment Act, as amended; and,

WHEREAS, the City has previously entered into a Development Agreement (the "Agreement") dated March 21, 2005 with Courthouse Land Development, LLC (the "Developer") regarding said Project Area; and;

WHEREAS, the City and the Developer desire to amend the Agreement;

WHEREAS, the First Amendment to Development Agreement is on file with the City Clerk of the City and available for public inspection.

NOW, THEREFORE, BE IT ORDAINED by the 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 Development Agreement between the City and the Developer, in substantially the form attached hereto as Exhibit "A", and, by this reference, incorporated herein.

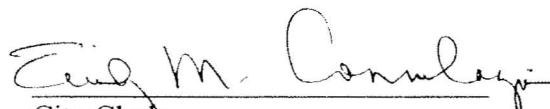
Section 2. That all ordinances and resolutions, or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

Section 3. That this Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet for as provided by law.

PASSED AND APPROVED by the City Council of the City of Wheaton, Illinois, this 16th day of January, 2007.


Mayor

ATTEST:


City Clerk

Roll Call Vote:

Ayes: Councilman Mouhelis
Councilman Suess
Councilman Bolds
Councilwoman Corry
Councilman Johnson
Mayor Carr
Councilman Levine

Nays: None

Absent: None

Motion Carried Unanimously

Passed: January 16, 2007
Published: January 17, 2007

FIRST AMENDMENT TO DEVELOPMENT AGREEMENT

This FIRST AMENDMENT TO DEVELOPMENT AGREEMENT (hereinafter referred to as the "FIRST AMENDMENT") is made and entered into as of the 16th day of January, 2007, 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") and COURTHOUSE LAND DEVELOPMENT, LLC (the "DEVELOPER"); the CITY and the DEVELOPER being sometimes hereinafter referred to individually as the "PARTY" and collectively as the "PARTIES".

RECITALS

A. The PARTIES previously entered into a Development Agreement dated March 21, 2005 (the "ORIGINAL AGREEMENT").

B. The PARTIES desire to amend the ORIGINAL AGREEMENT to correct the depiction and legal description of the area that is subject to the terms of the ORIGINAL AGREEMENT.

C. The City Council of the CITY has determined that such amendment would be, in all respects, consistent with and in furtherance of the REDEVELOPMENT PLAN.

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:

SECTION ONE

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 Section One.

SECTION TWO

INTEGRATION OF DEVELOPMENT 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 it 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 this FIRST AMENDMENT shall control.

SECTION THREE

DEFINITIONS

Terms capitalized in this FIRST AMENDMENT and not otherwise defined herein shall have the meanings ascribed to those terms in the ORIGINAL AGREEMENT. Terms defined and capitalized herein shall have the meanings ascribed to those terms in this FIRST AMENDMENT and, to the extent such terms are also defined terms in the ORIGINAL AGREEMENT, the definitions of those terms as herein provided shall be deemed to control the interpretation of those terms in the ORIGINAL AGREEMENT.

SECTION FOUR

AMENDMENTS TO ORIGINAL AGREEMENT

Exhibit "A" of the ORIGINAL AGREEMENT is hereby deleted and replaced with the depiction attached hereto and incorporated herein as Exhibit "A". Exhibit "B" of the ORIGINAL AGREEMENT, is hereby deleted and replaced with the legal description contained in Exhibit "B" attached hereto and incorporated herein.

Exhibit "F" of the ORIGINAL AGREEMENT is hereby amended to delete Lot 11 of Courthouse Square Subdivision from the terms and conditions of the Planned Development/Subdivision Improvement Agreement.

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:

Emily M. Cannalozzi
City Clerk

COURTHOUSE LAND DEVELOPMENT,
LLC, an Illinois limited liability company,

By: _____

Pres., Airhart Construction Corp.
Member/Manager

ATTEST:

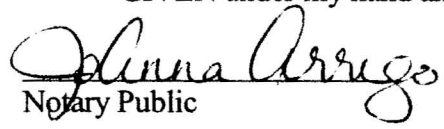
REORC
Sec./Treas
Airhart Construction Corp.

Ex A
F-1247

STATE OF ILLINOIS)
) SS.
COUNTY OF DU PAGE)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that C. James Carr, Mayor of the City of Wheaton, and Emily M. Consolazio, City Clerk of said City, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Mayor and City Clerk, respectively appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said City, for the uses and purposes therein set forth; and the City Clerk then and there acknowledged that she, as custodian of the corporate seal of said City, did affix the corporate seal of said City to said instrument, as her own free and voluntary act and as the free and voluntary act of said City, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 22nd day of January, 2007.


Notary Public



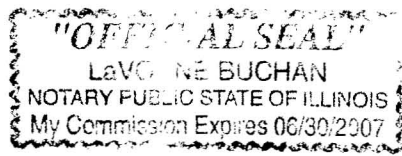
E & A
F 1248

STATE OF ILLINOIS)
) SS.
COUNTY OF DU PAGE)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Court M. Airhart, Pres., Airhart Construction Corp. Member/Manager of Courthouse Land Development, LLC and Mark D. Glassman, Sec./Treas. of said Airhart Construction Corp., personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Pres. and Sec./Treas., respectively and acting as Member/Manager, appeared before me this date in person and acknowledged that they signed and delivered the said instrument as their free and voluntary act and as the free and voluntary act of said company, for the uses and purposes therein set forth; and the said Sec./Treas. then and there acknowledged that he, as custodian of the seal of said company, did affix the seal of said company to said instrument, as his own free and voluntary act and as the free and voluntary act of said company, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 17 day of January, 2007.

LaVonne Buchan
Notary Public



Ex A
F-1248

EXHIBIT A
OUTLINE OF SITE

Ex A 1248

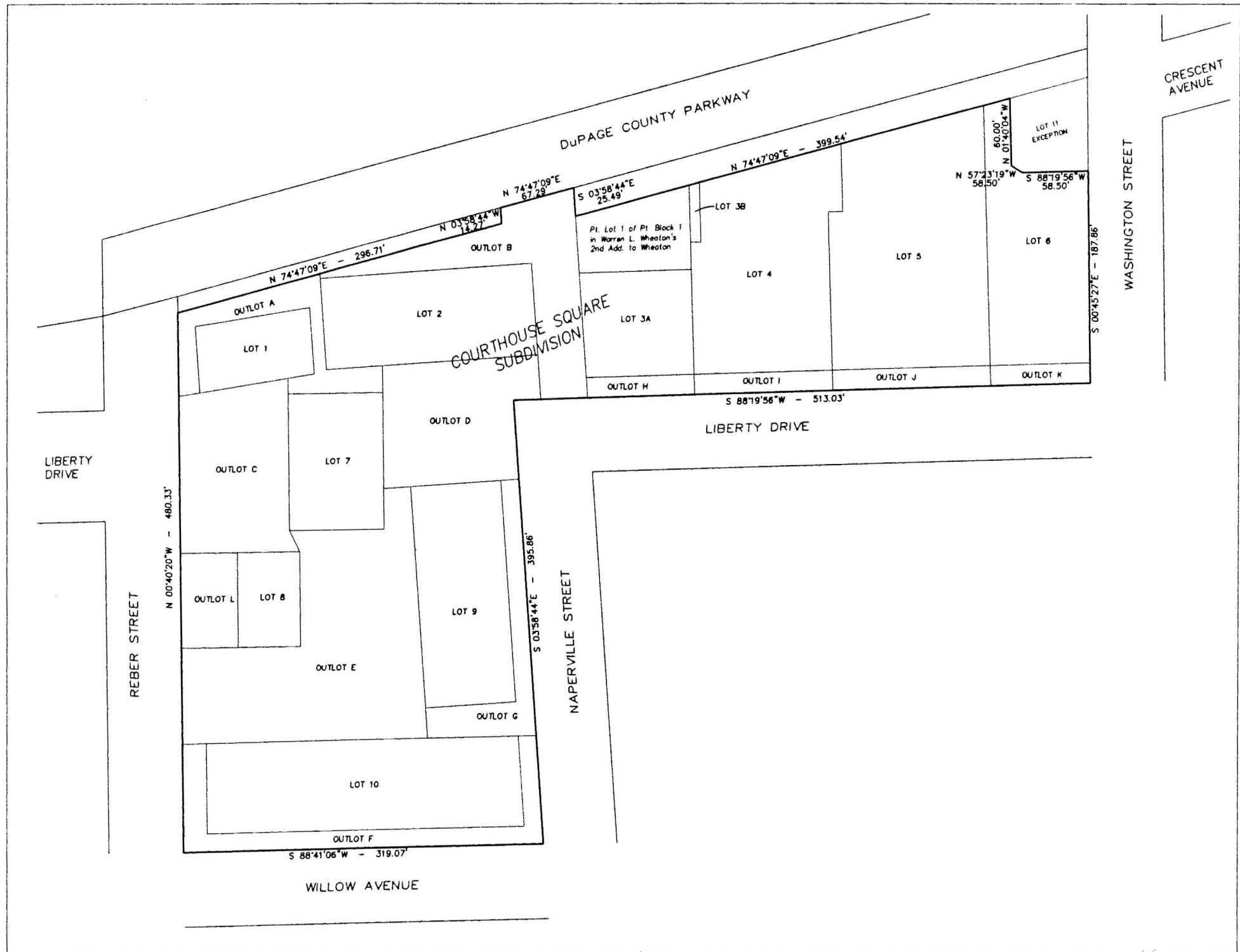


EXHIBIT B

LEGAL DESCRIPTION OF SITE

ALL OF COURTHOUSE SQUARE SUBDIVISION, EXCEPT LOT 11, BEING A SUBDIVISION OF PART OF THE SOUTHWEST QUARTER AND PART OF THE SOUTHEAST QUARTER OF SECTION 16, TOWNSHIP 39 NORTH, RANGE 10 EAST, RECORDED SEPTEMBER 8, 2005, AS DOCUMENT NUMBER R2005 197255, IN THE OFFICE OF THE DUPAGE COUNTY RECORDER, IN DUPAGE COUNTY, ILLINOIS.

ALSO

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, SAID PART OF LOT 1 BEING DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF LOT 1; THENCE SOUTH ALONG THE WEST LINE OF LOT 1, A DISTANCE OF 50 FEET; THENCE EAST AND PARALLEL TO THE SOUTH LINE OF LOT 1, A DISTANCE OF 100 FEET; THENCE NORTH AT RIGHT ANGLES TO THE LAST DESCRIBED LINE 75.29 FEET, MORE OR LESS, TO THE NORTHERLY LINE OF SAID LOT 1; THENCE SOUTHWESTERLY ALONG THE NORTHERLY LINE OF SAID LOT 1, A DISTANCE OF 105.27 FEET, MORE OR LESS, TO THE NORTHWEST CORNER OF SAID LOT 1 AND TO THE POINT OF BEGINNING, ALL IN DUPAGE COUNTY, ILLINOIS.