

ORDINANCE NO. F-1334

**AN ORDINANCE GRANTING A VARIANCE FROM THE
PROVISIONS OF THE DUPAGE COUNTY COUNTYWIDE STORMWATER AND
FLOOD PLAIN ORDINANCE –
WHEATON PROPERTY PARTNERS, LLC
120 E. LIBERTY DRIVE & 114 E. WILLOW AVENUE**

WHEREAS, Wheaton Property Partners, LLC ("Developer") has submitted a written petition requesting the granting of a variance from the provisions of Section 15-114.2 of the DuPage County Countywide Stormwater and Flood Plain Ordinance ("Stormwater Ordinance"); the request pertains to the construction of a five story office building and public parking garage ("Project") located at the southwest corner of Liberty Drive and Cross Street, 120 E. Liberty Drive and 114 E. Willow Avenue, Wheaton, Illinois ("Project Site"); and

WHEREAS, the scope of the Project requires the application of stormwater management practices in accordance with the Stormwater Ordinance, which the City has adopted; and

WHEREAS, the DuPage County Stormwater Management Committee has granted the City partial waiver status of County enforcement of the Stormwater Ordinance, and as such, the Wheaton City Council has the sole authority to grant variances to the Stormwater Ordinance for projects within the City; and

WHEREAS, the stormwater management plan for the Project submitted by the Developer's engineer, Manhard Consulting, Ltd. of Vernon Hills, Illinois, indicates that the Project maintains the existing discharge of stormwater from the Project Site for the 2, 10, and 100-year storm events while providing zero percent (0%) of the required stormwater detention volume for a storm event having a fifty percent (50%) chance of occurrence in a year (2-year storm event); and

WHEREAS, pursuant to notice as required by the Stormwater Ordinance, a public hearing was conducted by the Wheaton City Council on February 11, 2008 to consider the variance request; and the Wheaton City Council has recommended approval of the variance.

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: The Wheaton City Council has determined the following findings of fact.

1. Granting the variance will not alter the essential character of the area of the Project Site, including existing stream uses.
2. Carrying out the strict letter of the provisions of the Stormwater Ordinance would create an undo or particular hardship or difficulty on the Owner.
3. The relief requested is the minimum necessary and there are no means other than the requested variance by which the alleged hardship can be avoided or remedied to a degree sufficient to permit the reasonable development of the Project.

4. The Owner's circumstances are unique and do not represent a general condition or problem.
 5. The Project is exceptional as compared to other developments subject to the same provisions.

SECTION 2: A variance from the provisions of Section 15-114.2 of the Stormwater Ordinance is hereby granted to permit the construction of the Project, on the property legally described on Exhibit A attached hereto, in accordance with the stormwater management report prepared by Manhard Consulting, Ltd. dated September 12, 2006 with latest revision date of November 26, 2007.

SECTION 3: It shall be a condition precedent to the effectiveness of this ordinance and the issuance of any permit to construct the Project that the Developer pay to DuPage County a detention variance fee for the volume of stormwater detention not provided in full compliance with the Stormwater Ordinance.

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.


Michael J. New
Mayor

ATTEST:

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Emily M. Consalvo
City Clerk

ROLL CALL VOTE

Ayes: Councilman Mouhelis
Councilman Prendiville
Councilwoman Corry
Councilman Johnson
Mayor Gresk

Nays: Councilman Suess

Absent: Councilman Levine

Motion Carried

Passed: March 3, 2008
Published: March 4, 2008