

ORDINANCE NO. F-1970
AN ORDINANCE APPROVING AMENDED ARTICLES OF AGREEMENT
800 EAST ROOSEVELT ROAD

WHEREAS, on or about the 23rd day of November, 1965, the Chrysler Motors Corporation, and the City of Wheaton (hereinafter "CITY"), entered into an agreement entitled "Articles of Agreement" related to property legally described as:

THE WEST 60 FEET OF LOT 6, LOT 7 AND 8, NORTH 103 FEET OF LOT 38, NORTH 103 FEET OF LOT 39 AND NORTH 130 FEET OF THE WEST 60 FEET OF LOT 40 IN ROOSEVELT HEIGHTS, A SUBDIVISION IN PART OF THE NORTH HALF OF SECTION 21, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN DUPAGE COUNT, ILLINOIS (HEREINAFTER "ORIGINAL PROPERTY"); and

WHEREAS, the Articles of Agreement was recorded December 3, 1965 with the DuPage County Recorder of Deeds as Document No. AR6548323 (hereinafter "ARTICLES"); and

WHEREAS, the ARTICLES contain certain restrictions with regard to the development of the ORIGINAL PROPERTY; and

WHEREAS, the restrictive covenants contained in the ARTICLES run with the land and bind the current owner, its successors, heirs, contract purchasers and assigns; and

WHEREAS, the ORIGINAL PROPERTY is owned by Chicago Title & Trust Company, as Trustee under Trust Agreement dated September 1, 2001 and known as Trust No. 110136 (hereinafter "OWNER"); and

WHEREAS, on dates after November 23, 1963, the OWNER acquired real property contiguous to the ORIGINAL PROPERTY which, in conjunction with the ORIGINAL PROPERTY, is legally described as:

PARCEL 1: THE WEST 60 FEET OF LOT 6 (EXCEPT THE NORTH 8 FEET OF SAID WEST 60 FEET), LOTS 7 AND LOT 8 (EXCEPT THE NORTH 8 FEET OF SAID LOTS 7 AND 8), THE NORTH 103 FEET OF LOT 38, THE NORTH 103 FEET OF LOT 39 AND THE NORTH 103 FEET OF THE WEST 60 FEET OF LOT 40 IN ROOSEVELT HEIGHTS, BEING A SUBDIVISION OF PART OF THE NORTH 1/2 OF THE NORTH 1/2 OF SECTION 21, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 12, 1919 AS DOCUMENT 138250, IN DUPAGE COUNTY, ILLINOIS.

PARCEL 2: THE EAST 60 FEET OF LOT 9 (EXCEPT THE SOUTH 122 FEET THEREOF) AND (EXCEPT THE NORTH 8 FEET THEREOF CONVEYED TO THE CITY OF WHEATON FOR HIGHWAY BY INSTRUMENT RECORDED AS DOCUMENT R65-50826) IN ROOSEVELT HEIGHTS, BEING A SUBDIVISION OF PART OF THE NORTH 1/2 OF THE NORTH 1/2 OF SECTION 21, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 12, 1919 AS DOCUMENT 138250, IN DU PAGE COUNTY, ILLINOIS.

PARCEL 3: LOT 9 (EXCEPT THE EAST 60 FEET OF SAID LOT 9 LYING NORTH OF THE SOUTH 122 FEET THEREOF) AND (EXCEPT THE NORTH 8 FEET THEREOF CONVEYED TO THE CITY OF WHEATON FOR HIGHWAY BY INSTRUMENT RECORDED AS DOCUMENT R65-50826) IN ROOSEVELT HEIGHTS, BEING A SUBDIVISION OF PART OF THE NORTH 1/2 OF THE NORTH 1/2 OF SECTION 21, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 12, 1919 AS DOCUMENT 138250, IN DU PAGE COUNTY, ILLINOIS (HEREINAFTER "PROPERTY"); and.

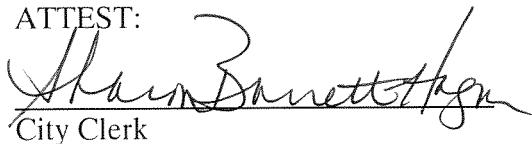
05-21-201-004; 043 and 044

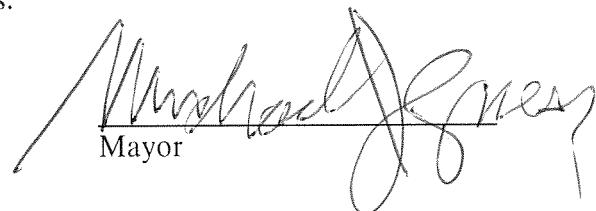
WHEREAS, a contract purchaser of the PROPERTY, Key Development Partners, has come forward with a proposal to develop the PROPERTY and seeks abrogation of a restrictive covenant contained in the ARTICLES which prohibits the construction of a building upon the portion of the PROPERTY legally described as:

THE NORTH 103 FEET OF LOT 38, AND THE WEST 60 FEET OF THE NORTH 103 FEET OF LOT 40 IN ROOSEVELT HEIGHTS, A SUBDIVISION OF PART OF THE NORTH HALF OF THE NORTH HALF OF SECTION 21, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN DUPAGE COUNTY, ILLINOIS (HEREINAFTER "RESTRICTED PARCEL"); and

NOW THEREFORE, BE IT ORDAINED, by the Mayor and City Council of the City of Wheaton, DuPage County, Illinois, pursuant to its Home Rule Authority, that the Mayor is hereby authorized to sign, and the City Clerk is hereby directed to attest, to the Amended Articles of Agreement attached hereto and incorporated herein as Exhibit A. The City Manager, and his designees, are further hereby authorized to undertake any and all acts to effectuate the Amended Articles of Agreement in conformance with its terms.

ATTEST:


Sean Bennett-Hay
City Clerk


Michael Gresk
Mayor

Ayes:

Roll Call Vote

Councilman Prendiville
Councilman Rutledge
Mayor Gresk
Councilman Saline
Councilman Scalzo
Councilman Suess
Councilwoman Fitch

Nays:

None

Absent:

None

Motion Carried Unanimously

Passed: November 7, 2016

Published: November 8, 2016

AMENDED ARTICLES OF AGREEMENT

800 EAST ROOSEVELT ROAD

PIN: 05-21-201-004; 043; 044

WHEREAS, on or about the 23rd day of November, 1965, the Chrysler Motors Corporation, and the City of Wheaton (hereinafter "CITY"), entered into an agreement entitled "Articles of Agreement" related to property legally described as:

THE WEST 60 FEET OF LOT 6, LOT 7 AND 8, NORTH 103 FEET OF LOT 38, NORTH 103 FEET OF LOT 39 AND NORTH 130 FEET OF THE WEST 60 FEET OF LOT 40 IN ROOSEVELT HEIGHTS, A SUBDIVISION IN PART OF THE NORTH HALF OF SECTION 21, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN DUPAGE COUNT, ILLINOIS (HEREINAFTER "ORIGINAL PROPERTY"); and

WHEREAS, the Articles of Agreement was recorded December 3, 1965 with the DuPage County Recorder of Deeds as Document No. AR6548323 (hereinafter "ARTICLES"); and

WHEREAS, the ARTICLES contain certain restrictions with regard to the development of the ORIGINAL PROPERTY; and

WHEREAS, the restrictive covenants contained in the ARTICLES run with the land and bind the current owner, its successors, heirs, contract purchasers and assigns; and

WHEREAS, the ORIGINAL PROPERTY is owned by Chicago Title & Trust Company, as Trustee under Trust Agreement dated September 1, 2001 and known as Trust No. 110136 (hereinafter "OWNER"); and

WHEREAS, on dates after November 23, 1965, the OWNER acquired real property contiguous to the ORIGINAL PROPERTY which, in conjunction with the ORIGINAL PROPERTY, is legally described as:

PARCEL 1: THE WEST 60 FEET OF LOT 6 (EXCEPT THE NORTH 8 FEET OF SAID WEST 60 FEET), LOTS 7 AND LOT 8 (EXCEPT THE NORTH 8 FEET OF SAID LOTS 7 AND 8), THE NORTH 103 FEET OF LOT 38, THE NORTH 103 FEET OF LOT 39 AND THE NORTH 103 FEET OF THE WEST 60 FEET OF LOT 40 IN ROOSEVELT HEIGHTS, BEING A SUBDIVISION OF PART OF THE NORTH 1/2 OF THE NORTH 1/2 OF SECTION 21, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 12, 1919 AS DOCUMENT 138250, IN DUPAGE COUNTY, ILLINOIS.

PARCEL 2: THE EAST 60 FEET OF LOT 9 (EXCEPT THE SOUTH 122 FEET THEREOF) AND (EXCEPT THE NORTH 8 FEET THEREOF CONVEYED TO THE CITY OF WHEATON FOR HIGHWAY BY INSTRUMENT RECORDED AS DOCUMENT R65-50826) IN ROOSEVELT HEIGHTS, BEING A SUBDIVISION OF PART OF THE NORTH 1/2 OF THE NORTH 1/2 OF

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PARCEL 3: LOT 9 (EXCEPT THE EAST 60 FEET OF SAID LOT 9 LYING NORTH OF THE SOUTH 122 FEET THEREOF) AND (EXCEPT THE NORTH 8 FEET THEREOF CONVEYED TO THE CITY OF WHEATON FOR HIGHWAY BY INSTRUMENT RECORDED AS DOCUMENT R65-50826) IN ROOSEVELT HEIGHTS, BEING A SUBDIVISION OF PART OF THE NORTH 1/2 OF THE NORTH 1/2 OF SECTION 21, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 12, 1919 AS DOCUMENT 138250, IN DU PAGE COUNTY, ILLINOIS (HEREINAFTER "PROPERTY").

05-21-201-004; 043; and 044

WHEREAS, more than 51 years have elapsed since approval of the ARTICLES; and

WHEREAS, a contract purchaser of the PROPERTY, Key Development Partners, has come forward with a proposal to develop the PROPERTY and seeks abrogation of a restrictive covenant contained in the ARTICLES which prohibits the construction of a building upon the portion of the PROPERTY legally described as:

THE NORTH 103 FEET OF LOT 38, AND THE WEST 60 FEET OF THE NORTH 103 FEET OF LOT 40 IN ROOSEVELT HEIGHTS, A SUBDIVISION OF PART OF THE NORTH HALF OF THE NORTH HALF OF SECTION 21, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN DUPAGE COUNTY, ILLINOIS (HEREINAFTER "RESTRICTED PARCEL"); and

WHEREAS, OWNER acknowledges that the CITY'S abrogation of the building prohibition on the Restricted Parcel is sufficient consideration to support the new restrictive covenants contained in this Amended Articles of Agreement.

NOW THEREFORE, for the considerations recited herein, the sufficiency of which are hereby acknowledged, the City of Wheaton and Chicago Title & Trust Company, as Trustee under Trust Agreement dated September 1, 2001 and known as Trust No. 110136, agree as follows:

RECITALS

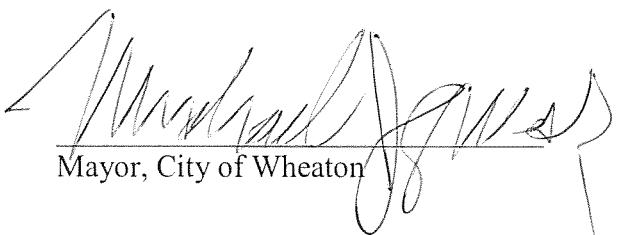
The foregoing recitals are incorporated herein as evidence of the parties' intent and as substantive provisions.

ABROGATION AND RESTRICTIONS

The no-building restriction of 103 feet on the Restricted Parcel, approved by the ARTICLES, is hereby abrogated by the Corporate Authorities of the City of Wheaton subject to the following new restrictions:

1. A “no-building area” of 42 feet is hereby established over the PROPERTY in lieu of the abrogated 103 feet no-building area. The 42 foot no-building area is depicted on the Site Plan attached hereto and incorporated herein as Exhibit 1. Only landscaping, as required by Article VI of the Wheaton City Zoning Ordinance, and Stormwater Management, may be placed in the 42-foot no-building area.
2. OWNER agrees not to seek, secure or acquire any ownership right or easement for any purpose of egress or ingress on the PROPERTY leading to or from Pershing Avenue.
3. OWNER agrees that the sole egress and ingress to and from the PROPERTY shall be provided from Roosevelt Road.
4. OWNER agrees there shall be no curb cuts, allowing ingress or egress from Chase Street to or from the PROPERTY.
5. OWNER agrees utilities, including electrical, cable, and/or telephone shall be installed as depicted on Exhibit 1. OWNER shall remove existing overhead utilities and vacate existing utility easements as depicted on Exhibit 1.
6. A solid wood, eight-feet fence shall be installed and maintained in good repair at all times by the OWNER along the entire length of any portion of the PROPERTY adjacent to property zoned residential, as depicted on Exhibit 1.
7. Should there be any future requests to abrogate or amend any of the restrictive covenants, terms or conditions of this Articles of Agreement, the OWNER shall have the obligation to notify by regular mail each property owner within 250 feet of the subject PROPERTY no less than 30 days prior to the date when any abrogation or amendment would be considered by the City Council. The OWNER shall be responsible for ascertaining the addresses of the property owners to be noticed and providing copies of all notifications to the City Planner prior to the first date where any such abrogation or amendment will be considered.
8. All development on the PROPERTY shall be developed and maintained in conformance with this Amended Articles of Agreement, and all applicable laws, codes, ordinances and regulations.
9. All prior agreements and negotiations are incorporated herein. There are no other oral or written understandings or agreements.

10. This Amended Articles of Agreement shall be recorded by the City Clerk at the OWNER'S expense.
11. No building permits shall be issued for the proposed development on the PROPERTY until this Agreement is fully executed and recorded.
12. No ambiguity in this Amended Articles of Agreement shall be construed against the maker, all parties having had the right to attorney assistance and input prior to finalization.
13. Any and all disputes arising in consequence of this Agreement shall be subject to the exclusive jurisdiction and venue of the Eighteenth Judicial Circuit Court of DuPage County, Wheaton, Illinois.
14. All terms and conditions of this Articles of Agreement shall run with the described PROPERTY and shall extend to and be obligatory upon all heirs, successors, assigns, subsequent purchasers and lessees.



Mayor, City of Wheaton

Owner of Property

Date: November 8, 2016

Date: _____

ATTEST:



Alison Bennett Hogan
City Clerk, City of Wheaton

