

Item #2:
Ordinance Approving Amendments To Sunset Grove PUD

VILLAGE OF LONG GROVE

ORDINANCE NO. 2017-O-__

**AN ORDINANCE APPROVING A MAJOR AMENDMENT
REGARDING NON-RETAIL USE RESTRICTIONS IN THE
SUNSET GROVE FINAL PLANNED UNIT DEVELOPMENT**

Adopted by the
President and Board of Trustees
of
the Village of Long Grove
this __th day of June, 2017

Published in pamphlet form by direction
and authority of the Village of Long Grove,
Lake County, Illinois
this __th day of June, 2017

VILLAGE OF LONG GROVE

ORDINANCE NO. 2017-O-__

**AN ORDINANCE APPROVING A MAJOR AMENDMENT
REGARDING NON-RETAIL USE RESTRICTIONS IN THE
SUNSET GROVE FINAL PLANNED UNIT DEVELOPMENT**

WHEREAS, pursuant to Ordinance No. 2008-O-27 ("**Final PUD Ordinance**"), the Village of Long Grove (the "**Village**") granted final planned unit development approval for the Sunset Grove Planned Unit Development ("**Planned Unit Development**"); and

WHEREAS, the Final PUD Ordinance, as amended from time to time, granted approval for a commercial development on certain real property generally located at the southeast corner of Illinois Route 83 and Aptakisic Road in the Village, which is legally described in Exhibit A to this Ordinance ("**Subject Property**"); and

WHEREAS, Sunset Grove, LLC ("**Owner**") is the current owner of the Subject Property, and the Owner has requested approval of an amendment to Section 3(Q) of the Final PUD Ordinance to authorize a maximum of 18.5% of the aggregate gross floor area of leasable space in the Planned Unit Development to be devoted to non-retail uses ("**Proposed Amendment**"); and

WHEREAS, pursuant to notice duly published, Plan Commission & Zoning Board of Appeals ("**PCZBA**") conducted a public hearing on June 6, 2017 to consider the Proposed Amendment; and

WHEREAS, at the conclusion of the public hearing, the PCZBA recommended that the Proposed Amendment be approved; and

WHEREAS, the President and Board of Trustees find that the Proposed Amendment is a major amendment to the Planned Unit Development; and

WHEREAS, Section 5-11-18(l)(1) of the Long Grove Village Code authorizes the Village Board to approve major changes in an approved planned unit development; and

WHEREAS, the President and Board of Trustees have determined that it is in the best interests of the Village and its residents to approve the Proposed Amendment to the Planned Unit Development, subject to the terms and conditions of this Ordinance as hereinafter set forth;

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LONG GROVE, COUNTY OF LAKE, STATE OF ILLINOIS, as follows:

SECTION ONE: **Recitals.** The foregoing recitals are hereby incorporated into and made a part of this Ordinance as if fully set forth herein.

SECTION TWO: **Major Amendment to the Planned Unit Development.**
Pursuant to 5-11-18(l)(1) of the Long Grove Village Code, and subject to the conditions set forth in Section Three of this Ordinance, the Planned Unit Development shall be, and is hereby, amended with respect to Section 3(Q) of the Final PUD Ordinance, which shall hereafter be and read as follows:

Q. **Non-Retail Use Restriction.** No more than ~~18,500 square feet~~ **18.5%** of the leasable **aggregate gross** floor area of the Property shall be used for nonretail uses, as that term is defined in paragraph 5-12-13 of the Zoning Code **and as further described in Sections 3(Q)1 and 3(Q)2 of this Ordinance.** This limitation on nonretail uses to a total area of not more than ~~18,500 square feet~~ **18.5%** of leasable **aggregate gross** floor area of the Property will apply regardless of any development that may occur in other areas of the Village that may, in the future, be zoned in the HR-1 District. For purposes of this Ordinance, an occupancy shall be deemed a “nonretail use” if;

1. less than fifty percent (50%) of the annual gross revenues generated from the occupancy are derived from sales that are subject to retailer’s or service occupation taxes or successor taxes; or
2. less than fifty percent (50%) of the gross floor area open to the public are devoted to sales activities that are subject to retailer’s or service occupation or successor taxes.

SECTION THREE: Conditions on Approval. The major amendment to the Planned Unit Development granted pursuant to Section Two of this Ordinance shall be, and is hereby, conditioned upon and limited by the following conditions, the violation of any of which shall, in the reasonable discretion of the President and Board of Trustees, be grounds for the repeal and revocation of the approvals granted herein:

- a. Continued Effect of the Planned Unit Development. Except as expressly modified by this Ordinance, the Final PUD Ordinance shall remain in full force and effect, and the Owner shall comply with all requirements, conditions, and restrictions therein. To the extent any terms of this Ordinance conflict with the terms of the Final PUD Ordinance, the terms of this Ordinance shall control.
- b. Compliance with Laws. Except as otherwise provided in this ordinance, the Zoning Code, the Subdivision Code, the Building Code, and all other applicable ordinances and regulations of the Village shall continue to apply to the Property. In addition, the development and use of the Property shall be in compliance with all laws and regulations of all other federal, state, and local governments and agencies having jurisdiction.
- c. Fees and Costs. The Owner shall be responsible for paying all applicable fees relating to the granting of the approvals set forth herein in accordance with the Long Grove Village Code. In addition, the Owner shall reimburse the Village for all of its costs (including without limitation engineering, planning, and legal expenses) incurred in connection with the review, consideration, approval, implementation, or enforcement of the Final PUD Ordinance, as amended from time-to-time. Any amount not paid within 30 days after delivery of a demand in writing for such payment shall, along with interest and the costs of collection, become a lien upon the Property, and the Village shall have the right to foreclose such lien in the name of the Village as in the case of foreclosure of liens against real estate.
- d. Transferees. The rights and obligations set forth in this Ordinance shall be binding on the Owner, and upon any and all of the Owner's heirs, successors, and assigns, and upon any and all successor legal or beneficial owners of all or any portion of the Property. To the extent that a successor becomes bound to the obligation created herein pursuant to a transferee assumption agreement acceptable to the Village, and such successor demonstrates to the Village that it has the financial viability to meet the obligations herein, the Owner shall be released from its obligations under this Ordinance to the extent of the transferee's assumption of such liability. The failure of the Owner to provide the Village with an enforceable transferee

assumption agreement as herein provided shall result in the Owner remaining fully liable for all of their obligations under this Ordinance but shall not relieve the transferee of its liability for all such obligations as a successor to Owner.

In addition, any violation of this Ordinance shall be deemed a violation of the Long Grove Village Code and shall subject the Owner to enforcement proceedings accordingly.

SECTION FOUR: Effective Date. This Ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form in the manner provided by law; provided, however, that this Ordinance shall be of no force or effect unless and until the Owner has caused a duly authorized person to execute and thereafter file with the Village its unconditional agreement and consent, in the form attached hereto as Exhibit B, and by this reference incorporated herein and made a part hereof; provided further that, if the Owner does not so file its unconditional agreement and consent within 30 days following the passage of this Ordinance, the Village Board may, in its discretion and without public notice or hearing, repeal this Ordinance and thereby revoke the major amendment granted in this Ordinance. Upon this Ordinance having full force and effect, the Village Clerk shall cause it to be recorded in the Office of the Lake County, Illinois Recorder of Deeds.

PASSED this ___th day of June, 2017.

AYES: ()

NAYS: ()

ABSENT: ()

APPROVED this ___th day of June, 2017.

Village President

ATTEST:

Village Clerk

DRAFT

EXHIBIT A

Legal Description of the Property

PARCEL 1:

THE NORTH 5 ACRES OF THE WEST HALF OF THE EAST HALF OF THE NORTHEAST QUARTER OF SECTION 30, TOWNSHIP 43 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, (EXCEPT THAT PART TAKEN FOR ROAD PURPOSES IN CASE NUMBER 91 ED 44) IN LAKE COUNTY, ILLINOIS.

PARCEL 2:

THE SOUTH 389.18 FEET OF THE NORTH 718.31 FEET (AS MEASURED ON THE EAST AND WEST LINES THEREOF) OF THE NORTH HALF OF THE WEST HALF OF THE EAST HALF OF THE NORTHEAST QUARTER OF SECTION 30, TOWNSHIP 43 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING EAST OF THE EAST LINE OF ROUTE 83 (EXCEPT THAT PART TAKEN FOR ROAD PURPOSES IN CASE NUMBER 91 ED 43) IN LAKE COUNTY, ILLINOIS.

PARCEL 3:

THE SOUTH 389.17 FEET OF THE NORTH 1107.48 FEET (AS MEASURED ON THE EAST AND WEST LINES THEREOF) OF THAT PART OF THE NORTH HALF OF THE WEST HALF OF THE EAST HALF OF THE NORTHEAST QUARTER OF SECTION 30, TOWNSHIP 43 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING EAST OF THE EAST LINE OF ROUTE 83 (EXCEPT THAT PART TAKEN FOR ROAD PURPOSES IN CASE NUMBER 91 ED 42) IN LAKE COUNTY, ILLINOIS.

PARCEL 4:

THE WEST 2 1/2 ACRES OF THE NORTH 5 ACRES OF THE EAST HALF OF THE EAST HALF OF THE NORTHEAST QUARTER OF SECTION 30, TOWNSHIP 43 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN LAKE COUNTY, ILLINOIS.

- PINs: 15-30-203-011
15-30-203-012
15-30-203-013
15-30-203-014
15-30-203-015
15-30-203-016
15-30-203-017
15-30-203-018
15-30-203-019
15-30-200-058

EXHIBIT B

UNCONDITIONAL AGREEMENT AND CONSENT

Pursuant to Section Three of Long Grove Ordinance No. 2017-O-__ and to induce the Village of Long Grove to grant the approvals provided for in such Ordinance, the undersigned acknowledge for themselves and their successors and assigns in title to the Subject Property that they

1. have read and understand all of the terms and provisions of said Ordinance No. 2017-O-__;
2. hereby unconditionally agree to accept, consent to, and abide by all of the terms, conditions, restrictions, and provisions of Ordinance No. 2017-O-__ and Ordinance No. 2008-O-27, and any amendments thereto, the Long Grove Zoning Code, and all other applicable codes, ordinances, rules, and regulations;
3. acknowledge and agree that the Village is not and shall not be, in any way, liable for any damages or injuries that may be sustained as a result of the Village's issuance of any permits for the use of the Subject Property, and that the Village's issuance of any permit does not, and shall not, in any way, be deemed to insure the Owner against damage or injury of any kind and at any time;
4. acknowledge that all public notices and hearings have been properly given and held with respect to the adoption of the Ordinance, has considered the possibility of the revocation provided for in the Ordinance, and agrees not to challenge any revocation on the grounds of any procedural infirmity or any denial of any procedural right;
5. agree to and do hereby hold harmless and indemnify the Village, the Village's corporate authorities, and all Village elected and appointed officials, officers, employees, agents, representatives, and attorneys, from any and all claims that may, at any time, be asserted against any of these parties in connection with the Village's adoption of the Ordinance granting the approvals to the Owner pursuant to the Ordinance; and
6. represent and acknowledge that the persons signing this Unconditional Agreement and Consent are duly authorized to do so on behalf of the Owner of the Subject Property.

SUNSET GROVE, LLC

By: _____

Its: _____

ATTEST:
