

MELTZER, PURTILL & STELLE LLC

ATTORNEYS AT LAW

1515 E. WOODFIELD ROAD
SECOND FLOOR
SCHAUMBURG, IL 60173-5431
PHONE (847) 330-2400
FAX (847) 330-1231

MPSLAW
300 S. WACKER DRIVE
SUITE 3500
CHICAGO, IL 60606-6704
PHONE (312) 987-9900
FAX (312) 987-9854

File Number: 35165-001
Direct Dial: (312) 461-4302
E-mail: sbauer@mpslaw.com

November 15, 2018

VIA HAND DELIVERY

Sam Hubbard
Development Planner
Department of Planning and Community Development
Village of Arlington Heights
33 S. Arlington Heights Road
Arlington Heights, IL 60005

Re: Petition for Final Plat of Subdivision Approval
Floor & Décor at Southpoint Shopping Center

Dear Mr. Hubbard:

On behalf of 600 Rand Rd, LLC (“Applicant”), as owner of the Floor & Décor retail property that is a portion of Lot 1 in The Cub Addition subdivision and commonly known as 600 East Rand Road (“Subject Property”), this letter is in response to your October 24th email correspondence transmitting the Village’s “Round 1” review comments (“Round 1 Comments”) and our related communications since then regarding Applicant’s petition for Final Plat of Subdivision approval to create a new 53,590 square-foot outlot (“Outlot”) from a portion of the Subject Property for the purpose of enabling the Outlot’s sale and, subject to subsequent Village approval, intended redevelopment as a catalyst for revitalization of the Southpoint Shopping Center.

Our responses to the Round 1 Comments are provided below in the same order in which they were presented by the Village’s Engineering, Fire, Police and Planning & Community Development departments, and with the same item numbers then assigned to those comments. We have not provided any responses to the review notes from the Village’s Building & Life Safety, Building, Public Works or the Planning & Community Development Landscape & Tree Preservation departments because they did not provide any comments necessitating a response.

Sam Hubbard
Village of Arlington Heights
November 15, 2018
Page 2

Engineering Department Review

Comment: 1. *The Final Plat of Subdivision must be reviewed and approved by the Engineering Department prior to final Plan Commission approval. The original signed mylar Final Plat of Subdivision, containing all non-Village signatures, shall be submitted one week before the scheduled date of the final Plan Commission meeting. Village Code Section 29-209 also requires a digital copy of the plat to be provided on disk to the Village. The petitioner shall acknowledge that they accept this understanding.*

Response: Applicant acknowledges and understands this requirement.

Comment: 2. *Village Code calls for each separate lot to have separate individual service lines for Village water and sanitary sewers. The recorded covenants, restrictions, and easement should cover the ownership and maintenance of all the existing utilities and service connections.*

Response: Applicant's request for subdivision approval does not currently include a redevelopment proposal for the Outlot. The contract purchaser of the Outlot will provide necessary service lines for water and sanitary sewer services in connection with the Outlot's redevelopment when proposed. Additionally, Sections 1.01 and 1.02 of the existing Declaration of Protective Covenants, Restrictions and Easements ("Declaration"), which is recorded against the Subject Property and the overall Southpoint Shopping Center, and currently on file with the Village, established perpetual easements for "installation, use, operation, maintenance, repair, replacement, relocation and removal of utility lines, conduits, wires, cables and pipes (including telephone, electric, gas, water, storm and sanitary sewer...." (emphasis added).

Comment: 3. *The plat was reviewed against the attached Final Plat of Subdivision Checklist. The following items need to be addressed:*

- a. *Item k: The text of protective covenants, approved by the Plan Commission, relating to the proposed subdivision.*

Response: Applicant does not intend to establish protective covenants for the proposed subdivision.

Sam Hubbard
Village of Arlington Heights
November 15, 2018
Page 3

b. *Item l: Add Cook County Clerk signature block.*

Response: The proposed plat contains a box noted as “Space Reserved for County Clerk’s Stamp” as is required by the Cook County Clerk’s Office. Please see the copies of the proposed plat provided herewith.

c. *Item n: Clearly identify the owners of each parcel of land within the signature blocks, and correct the County to reference Cook County.*

Response: The proposed plat is revised to identify Applicant as owner of the Subject Property and with corrected reference to Cook County. Please see the copies of the proposed plat provided herewith.

d. *Item t: Provide the name and address in the block stating “Send Tax Bill To:”*

Response: The proposed plat is revised to identify Applicant’s name and address in the tax bill reference block. Please see the copies of the proposed plat provided herewith.

Comment: 4. *Add the utility signature blocks.*

Response: Utility easements are currently in place to serve the Subject Property and the Outlot. Applicant does not contemplate need for any new public utility easements.

Comment: 5. *All existing cross access and shared parking agreements that permit other out lot permissions to overlap onto other subdivided parcels should be provided.*

Response: Applicant’s request for subdivision approval does not currently include a redevelopment proposal for the Outlot necessitating cross access and shared parking agreements at this time. However, the existing Declaration, which is recorded against the Subject Property and the overall Southpoint Shopping Center and currently on file with the Village, both (i) granted perpetual easements for shared parking and integrated use of the shopping center and (ii) contemplated changes to the shopping center without need for either an amendment to that Declaration or approval by owners of other portions to the shopping center. For example, Section 1.01(b) and 1.02(b) of that Declaration included perpetual easements for “ingress, egress and passage by pedestrians and for ingress, egress, passage and parking by motor vehicles...[where] walkways, roadways and parking areas and

Sam Hubbard
Village of Arlington Heights
November 15, 2018
Page 4

islands are from time to time located in the sole discretion” of the owner of that portion of the shopping center to which such changes are proposed. Additionally, Section 8.03 of that Declaration states “all easements and agreements contained herein or granted hereby shall operate as covenants running with the land for the benefit of all portions of the [shopping center] and shall be binding upon and inure to the benefit of the parties hereto and the successors and assigns of all the parties hereto with the same effect as if such successors and assigns were specifically named herein...” The contract purchaser of the Outlot will be a successor and assign of the parties to that Declaration. As a result, that purchaser and the Outlot will be benefitted by the foregoing Declaration provisions.

Comment: 6. Define all cross access easements to the new lot.

Response: Please see the response to comment 5 immediately above.

Fire Department Review

Comment: 1. The Fire Department Requests an auto turn diagram.

Response: Applicant’s request for subdivision approval does not currently include a redevelopment proposal for the Outlot. The contract purchaser of the Outlot will provide an auto turn diagram when it submits a redevelopment proposal to the Village for the Outlot.

Comment: 2. Building to be sprinkled.

Response: Applicant’s request for subdivision approval does not currently include a redevelopment proposal for the Outlot. Life safety provisions for redevelopment of the Outlot will be provided by the contract purchaser of the Outlot when it submits a redevelopment proposal to the Village for the Outlot.

Comment: 3. The Fire Department Connection shall be located at the main front entrance of the building, be fully visible and accessible. It shall be located within a maximum travel distance of 100 feet to the nearest fire hydrant.

Response: Applicant’s request for subdivision approval does not currently include a redevelopment proposal for the Outlot. Life safety provisions for redevelopment of the Outlot will be provided by the contract purchaser of the Outlot when it submits a redevelopment proposal to the Village for the Outlot.

Sam Hubbard
Village of Arlington Heights
November 15, 2018
Page 5

Comment: 4. A fully operational annunciator panel or alarm panel shall be located at the main front entrance of the building.

Response: Applicant's request for subdivision approval does not currently include a redevelopment proposal for the Outlot. Life safety provisions for redevelopment of the Outlot will be provided by the contract purchaser of the Outlot when it submits a redevelopment proposal to the Village for the Outlot.

Comment: 5. A Knox Box shall be located at the main front entrance.

Response: Applicant's request for subdivision approval does not currently include a redevelopment proposal for the Outlot. Life safety provisions for redevelopment of the Outlot will be provided by the contract purchaser of the Outlot when it submits a redevelopment proposal to the Village for the Outlot.

Police Department Review

Comment: 1. Character of use:

The character of use is consistent with the area and is not a concern.

Response: Agreed.

Comment: 2. Are lighting requirements adequate?

Lighting should be up to Village of Arlington Heights code. Special attention in the redevelopment should be given to those outside common areas, entrances/exits and parking lot. Special attention should be given to illuminating the parking lot, areas around the building—to include entries/exits. These areas should be illuminated specifically during hours of darkness for safety, to deter criminal activity and increase surveillance/visibility—potentially reducing theft, trespassing, vandalism, underage drinking, and other criminal activity.

Response: Applicant's request for subdivision approval does not currently include a redevelopment proposal for the Outlot. Lighting provisions for redevelopment of the Outlot will be provided by the contract purchaser of the Outlot when it submits a redevelopment proposal to the Village for the Outlot.

Sam Hubbard
Village of Arlington Heights
November 15, 2018
Page 6

Comment: 3. *Present traffic problems?*

There are no traffic problems at this location.

Response: Agreed.

Comment: 4. *Traffic accidents at particular location?*

This is not a problem area in relation to traffic accidents.

Response: Agreed.

Comment: 5. *Traffic problems that may be created by the development.*

This development is likely to create an increase in traffic volume. This increase is unlikely to caused problems since there will be vehicle access from several entrances/exits to Southpoint. Parking issues will be caused by patrons to Chili's and Olive Garden since overflow parking is directed to use the parking lot where the new building will be.

Response: Applicant's request for subdivision approval does not currently include a redevelopment proposal for the Outlot. As reflected by the concept site plan for future redevelopment of the Outlot, however, Applicant contemplates that any such redevelopment of the Outlot will require construction of additional parking spaces in the existing triangularly-shaped landscape island on the Subject Property. Those additional parking spaces will provide overflow parking for the Chili's and Olive Garden restaurant uses in the same manner as the existing parking on the Subject Property.

Comment: 6. *General comments:*

Landscaping should provide open sightlines to increase natural surveillance and avoid creating ambush locations and havens for illegal activities—theft, trespassing, vandalism, underage drinking, drug use, etc.

Response: Applicant's request for subdivision approval does not currently include a redevelopment proposal for the Outlot. A landscape plan for redevelopment of the Outlot will be provided by the contract purchaser of the Outlot when it submits a redevelopment proposal to the Village for the Outlot.

Please ensure that there is an emergency information/contact card on file with the Arlington Heights Police Department and that it is up-to-date during construction phase and for each tenant. The form is attached.

Sam Hubbard
Village of Arlington Heights
November 15, 2018
Page 7

Please complete and return. This allows police department personnel to contact an agent during emergency situations or for suspicious/criminal activity on the property during all hours.

Response: A completed Emergency Information Card is provided herewith based on Applicant's current ownership of the Subject Property, inclusive of the Outlot.

The addition of trespass signage is recommended. Consider posting no trespassing/loitering/no unauthorized use signage. The Arlington Heights Police Department has and utilizes trespass warning forms under qualifying circumstances when requested by property management.

Response: Understood. However, Applicant's request for subdivision approval does not currently include a redevelopment proposal for the Outlot. Use and posting of trespass signage will be evaluated by the contract purchaser of the Outlot when it submits a redevelopment proposal to the Village for the Outlot.

Planning & Community Development Department Review

Comment: 7. The following approvals have been requested:

- a. Preliminary and Final Plat of Subdivision to subdivide one lot into two lots.
- b. Variation to Chapter 29, Section 29-206, to waive the requirement for detailed plans outlining required improvements.
- c. Variation to Chapter 29, Section 29-501, to defer the requirement to conform to the regulations within Section 29-501 until such time as a building permit is submitted for development of the proposed Lot 2.

Response: Understood. However, we presume a variation to Chapter 29, Section 201(a)(5) regarding an engineer's approving opinion as to parking, traffic circulation and ingress/egress is also necessary because Applicant's request for subdivision approval does not currently include a redevelopment proposal for the Outlot.

Comment: 8. *Please note that the Final Plat, as approved by the Engineering Dept., must be printed on mylar and submitted to the Village, with signatures obtained from all parties except those to be coordinated by the Village, no less than one week prior to the Plan Commission hearing date. If this requirement cannot be met, you can proceed with Preliminary Plat*

Sam Hubbard
Village of Arlington Heights
November 15, 2018
Page 8

approval with Final Plat approval obtained at a future date (i.e. a separate Plan Commission meeting would be needed). No public notice is required for Final Plat of Subdivision approval. If you end up proceeding with Preliminary Plat approval only, a copy of the Plat which reads "Preliminary" will be required one week prior to the Plan Commission hearing.

Response: Understood.

Comment: 9. *Please note that final engineering must be approved by the Engineering Dept. no less than one week prior to appearance before the Plan Commission, which will include the payment of all applicable engineering fees and the provision of all surety bonds, public improvement deposits, and maintenance guarantees. If this requirement cannot be met, you can proceed with Preliminary Plat approval with Final Plat approval obtained at a future date (i.e. a separate Plan Commission meeting would be needed). No public notice is required for Final Plat of Subdivision approval. Please confirm with the Engineering Dept. if any deposits, bonds, and fees will be required prior to Plan Commission appearance.*

Response: Applicant's request for subdivision approval does not currently include a redevelopment proposal for the Outlot. Accordingly, engineering plans are not currently available, but will be provided by the contract purchaser of the Outlot when it submits a redevelopment proposal to the Village for the Outlot.

Comment: 10. *The School Data appears twice on the Plat of Subdivision. Please remove the duplicate appearance of this information.*

Response: Applicant's surveyor revised the proposed plat of resubdivision accordingly. A copy of that plat is provided herewith.

Comment: 11. *The following comments are preliminary comments relative to the conceptual site plan for the development of the proposed outlot. Please note that these comments are preliminary only and the Village reserves the right to generate additional comments once formal plans for development of the outlot have been submitted.*

Response: Understood.

Sam Hubbard
Village of Arlington Heights
November 15, 2018
Page 9

Comment: 12. *Approval of a PUD Amendment will be required prior to submission of a building permit for development on the proposed Lot 2.*

Response: Understood.

Comment: 13. *Any restaurant with a drive-through will require Special Use Permit approval. Restaurants without a drive-through may qualify for a Special Use Permit waiver.*

Response: Understood.

Comment: 14. *A condition of approval will be added that states: When the proposed outlot is developed, the developer will then correct any deficiencies to the stormwater requirements of the new overall subdivision as part of any new development for the outlot.*

Response: Understood. Based on our conversation with the Village Engineer, we understand “overall subdivision” means the Subject Property, inclusive of the Outlot.

Comment: 15. *Please provide an analysis of how many parking spaces will be removed for the proposed development, and how many parking spaces will be newly constructed (including the changes to the parking area outside of Lot 2). An overall net gain/loss of parking within the entire PUD should be provided.*

Response: As noted in our January 18, 2018 letter to you for the Concept Plan Review Committee’s consideration of Applicant’s petition for Final Plat of Subdivision approval to create the Outlot, a total of approximately 320 parking spaces are required on the Subject Property, inclusive of that required to serve the existing Floor & Décor store and the approximately 44 parking spaces that will be provided on the Outlot upon its future redevelopment in accordance with the contract purchaser’s concept site plan. By contrast, a total of approximately 493 parking spaces will exist on the Subject Property, inclusive of the aforementioned 44 parking spaces on the Outlot upon the Outlot’s future redevelopment in accordance with the contract purchaser’s concept site plan. As a result, a surplus of approximately 173 will remain on the Subject Property if and when the Outlot is redeveloped in accordance with the contract purchaser’s concept site plan. These numbers are based on both (i) contract purchaser’s concept site plan included with Applicant’s October 8, 2018 submittal and revised as included herewith and (ii) the “Southpoint Outlot Concept”

Sam Hubbard
Village of Arlington Heights
November 15, 2018
Page 10

attached to Village Business Development Coordinator Michael Mertes' January 14, 2016 letter to the contract purchaser of the Outlot.

Comment: 16. Sheet A-02 should be expanded in scope to show the entirety of changes to the drive aisles/parking areas/overall PUD site layout that will be required to accommodate for the proposed outlot. Currently, the sheet is cutoff at the south and does not show the entire scope of the site changes.

Response: Sheet A-02 of the concept site plan for intended redevelopment of the Outlot by the contract purchaser thereof is revised accordingly.

Comment: 17. Please confirm that the "REA" includes the necessary provisions to allow for shared parking and access through-out the entire Southpoint PUD.

Response: Applicant's request for subdivision approval does not currently include a redevelopment proposal for the Outlot necessitating shared parking and access throughout the Southpoint Shopping Center at this time. However, the existing Declaration, which is recorded against the Subject Property and the overall Southpoint Shopping Center and currently on file with the Village, both (i) granted perpetual easements for shared parking and integrated use of the shopping center and (ii) contemplated changes to the shopping center without need for either an amendment to that Declaration or approval by owners of other portions to the shopping center. For example, Section 1.01(b) and 1.02(b) of that Declaration established perpetual easements for "ingress, egress and passage by pedestrians and for ingress, egress, passage and parking by motor vehicles...[where] walkways, roadways and parking areas and islands are from time to time located in the sole discretion" of the owner of that portion of the shopping center to which such changes are proposed. Additionally, Section 8.03 of that Declaration states "all easements and agreements contained herein or granted hereby shall operate as covenants running with the land for the benefit of all portions of the [shopping center] and shall be binding upon and inure to the benefit of the parties hereto and the successors and assigns of all the parties hereto with the same effect as if such successors and assigns were specifically named herein...." The contract purchaser of the Outlot will be a successor and assign of the parties to that Declaration. As a result, that purchaser and the Outlot will be benefitted by the foregoing provisions of the Declaration.

Sam Hubbard
Village of Arlington Heights
November 15, 2018
Page 11

Comment: 18. *Landscape islands equal in size to one parking space and containing a shade tree are required at the end of all parking rows. Some rows do not appear to provide the required landscape island, and some landscape islands do not appear to be of a size sufficient to accommodate shade tree.*

Response: The contract purchaser's architect revised the concept site plan in an effort to address this comment. The contract purchaser's architect will further revise the site plan as necessary when it submits a redevelopment proposal to the Village for the Outlot.

Comment: 19. *The dumpster enclosure proposed at the "front" of the building along the access road is not acceptable. Please relocate this dumpster enclosure to a more suitable location.*

Response: The contract purchaser's architect revised the concept site plan as included herewith in an effort to address this comment. The contract purchaser's architect will further revise the site plan as necessary when it submits a redevelopment proposal to the Village for the Outlot.

Comment: 20. *Please expand the dumpster enclosure on the east side of the building so that it includes the transformer as well. Heavy landscaping should be placed on the north side of the dumpster enclosure.*

Response: The contract purchaser's architect revised the concept site plan as included herewith in an effort to address this comment. The contract purchaser's architect will further revise the site plan as necessary when it submits a redevelopment proposal to the Village for the Outlot.

Comment: 21. *It is unclear why the separate exit only lane is needed from the site to the access drive. This area would be better suited as additional parking and landscaping to buffer the site.*

Response: The separate exit only lane is intended to optimize traffic circulation efficiency on the Outlot. The contract purchaser's architect will further revise the site plan as necessary when it submits a redevelopment proposal to the Village for the Outlot.

Comment: 22. *There is only approx. 10' of landscape buffer area between the drive-through lane and the sidewalk. This area should be increased to provide an approx. 17' wide area to allow for a dense layered landscape buffer including a small berm.*

Sam Hubbard
Village of Arlington Heights
November 15, 2018
Page 12

Response: The contract purchaser's architect revised the concept site plan as provided herewith in an effort to address this comment. The contract purchaser's architect will further revise the site plan as necessary when it submits a redevelopment proposal to the Village for the Outlot.

Comment: 23. *For a detailed preliminary analysis of the development, please refer to the December 14, 2016 letter from Michael Mertes (attached).*

Response: Understood.

We trust that the above responses sufficiently address the Village's Round 1 Comments, and we look forward to continued communications with Village staff regarding Applicant's petition for Final Plat of Subdivision approval.

Please contact me at (312) 461-4302 if you wish to discuss the responses provided herein or the revised plat and concept site plan provided herewith.

Sincerely,

MELTZER, PURTILL & STELLE LLC



Steven C. Bauer

Enclosures