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PLAN

REPORT OF THE PROCEEDINGS OF A PUBLIC HEARING BEFORE THE VILLAGE OF ARLINGTON HEIGHTS PLAN COMMISSION

COMMISSION

RE: SOUTHPOINT SHOPPING CENTER - 630-720 EAST RAND ROAD - PC# 16-025
PRELIMINARY AND FINAL PLAT OF RESUBDIVISION

REPORT OF PROCEEDINGS had before the Village of
Arlington Heights Plan Commission Meeting taken at the Arlington Heights Village Hall,
33 South Arlington Heights Road, 3rd Floor Board Room, Arlington Heights, Illinois on
the 8th day of February, 2017 at the hour of 7:35 p.m.

MEMBERS PRESENT:

JOE LORENZINI, Chairman
LYNN JENSEN
BRUCE GREEN
GEORGE DROST
SUSAN DAWSON

ALSO PRESENT:

SAM HUBBARD, Development Planner

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CHAIRMAN LORENZINI: I'd like to call to order this meeting of the Plan Commission. Would everybody please rise and say the pledge of allegiance with us?

(Pledge of allegiance.)

CHAIRMAN LORENZINI: Roll call please.

MR. HUBBARD: Commissioner Cherwin.

(No response.)

MR. HUBBARD: Commissioner Dawson.

COMMISSIONER DAWSON: Here.

MR. HUBBARD: Commissioner Drost.

COMMISSIONER DROST: Here.

MR. HUBBARD: Commissioner Ennes.

(No response.)

MR. HUBBARD: Commissioner Green.

COMMISSIONER GREEN: Here.

MR. HUBBARD: Commissioner Jensen.

COMMISSIONER JENSEN: Here.

MR. HUBBARD: Commissioner Sigalos.

(No response.)

MR. HUBBARD: Commissioner Warskow.

(No response.)

MR. HUBBARD: Chairman Lorenzini.

CHAIRMAN LORENZINI: Here. The next item on the agenda is approval of meeting minutes from the meeting of January 25th, 2017. We had two, Southpoint Shopping Center and Windsor School. Any comments, recommendations, approvals?

COMMISSIONER GREEN: I'll make that recommendation.

COMMISSIONER JENSEN: I'll second.

CHAIRMAN LORENZINI: All in favor?

(Chorus of ayes.)

CHAIRMAN LORENZINI: Opposed?

(No response.)

CHAIRMAN LORENZINI: Okay, thank you. Next item on the agenda, we have two public hearings tonight. The first one is Southpoint Shopping Center, PC# 16-025. Is the Petitioner here? Would you please come forward? Come forward and raise your hand. Well, is anybody else going to testify besides yourself?

MR. BAUER: Perhaps.

CHAIRMAN LORENZINI: Why don't you both come forward and we'll swear you in? Please raise your hand.

(Witnesses sworn.)

CHAIRMAN LORENZINI: Thank you. Sam, have all the public notices been given?

MR. HUBBARD: They have.

CHAIRMAN LORENZINI: Why don't you, have you read the conditions in the Staff report and do you agree with them?

MR. BAUER: Yes, I have, yes, we do.

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CHAIRMAN LORENZINI: Okay, good. Why don't you give us a quick presentation? Then we'll go to the Staff report after that.

MR. BAUER: Certainly. Well, good evening, Mr. Chairman and members of the Commission. My name is Steve Bauer. I'm an attorney with the law firm of Meltzer, Purtill & Stelle here this evening on behalf of Inland Southpoint Venture and Village Bordeaux, LLC which are the owners of an undivided interest in the Southpoint Shopping Center, and specifically the portion of the shopping center that is the subject of the petition this hearing. I'm joined this evening by Phil Menolascina of Inland Partnership Property Sales Corporation as the property owner representative.

Mr. Chairman, before I go further, just as a point of clarification and as a matter of housekeeping, I just want to make sure that all of the 11 items that are a part of our submittal and linked to the online agenda for the meeting tonight are incorporated into and made a part of the record.

CHAIRMAN LORENZINI: Yes, we received an extensive package. Sam, I assume everything is on there?

MR. HUBBARD: Yes.

MR. BAUER: Made a part of the record? Okay, great. One point of clarification I offer, the seventh item on that list which is an existing conditions exhibit previously submitted to the Village and which will be included in the presentation tonight, that's actually an outdated exhibit and that reflects four lots. What's proposed at this time is three lots, and again I'll get into that as part of the presentation. So, I just want to make that point of clarification before we go further.

CHAIRMAN LORENZINI: Okay. Do we need any additional submittal on that?

MR. HUBBARD: No, it should be fine, yes.

CHAIRMAN LORENZINI: All right, please proceed.

MR. BAUER: I have, by the way, copies of that revised exhibit if you'd like to distribute them before I go on.

CHAIRMAN LORENZINI: Sure, why don't you just bring them over? Give one for Sam as well.

MR. BAUER: Sure.

CHAIRMAN LORENZINI: Just give them to Susan, we'll pass them on.

COMMISSIONER DAWSON: Thanks.

MR. BAUER: Hopefully you can see this better than is projected on the screen. But this is the Southpoint Shopping Center which was developed in approximately 1990. It's generally triangular in shape, bounded on the road by Palatine Road, on the west by Rand Road, on the south by Jane Avenue, and on the east by some commercial and single-family residential uses.

The area, as you can see hopefully from the faint yellow or sort of light orange lines that run throughout the shopping center, is today already divided into a number of tax parcels. Those are of course different and legal lots of record, which is why this petition is before you this evening. There are also currently four different property owners of various portions of the shopping center. Two of those property owners are the Petitioner this evening, another two is the owner of the Floor and Decor site which is at the northernmost portion of the property, and the fourth is the owner of the Bif site which is south and sort of southeast of the Floor and Decor site.

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There is also, as mentioned in the Staff report, an existing declaration of easement agreement in simple terms which provides for a number of things which includes parking, shared parking, access, signage and maintenance among a multitude of other things. That document was initially established in 1988 and then has been subsequently amended over a period of time. Importantly, that reciprocal easement agreement or what's commonly referred to as REA enables the overall shopping center to function as a cohesive unit, notwithstanding the fact that there are a number of different owners and that those owners own different portions of the shopping center.

The overall shopping center is approximately 28 or 29 acres in land area. Of that land area, the Applicant owns approximately 12 acres. Those 12 acres are divided generally into three sort of subareas if you will. The portion of the area owned by the Applicant in the northwest corner of the site is the portion of the property that is the subject of the petition this evening. That is, you can see there are two other subareas, one on the north side of the Bif Furniture Store, and then another on the south side of the Bif Furniture Store, again, all three of which are owned by the Applicant and they compose 12 out of the 28 or 29 acres of the overall shopping center. The Applicant has owned all three of those components of the shopping center since 1998, so approximately 19 years.

Hopefully you can see this again better than I'm able to see it here on the projector, but the area on the northwest corner of the site is the portion of the shopping center that's the subject of the petition this evening. It's composed of approximately four and a quarter acres with 630, 640 and 704 East Rand Road being the addresses assigned to these properties. That's, from north to south, the Olive Garden Restaurant, the Chili's Restaurant, and then the multi-tenant inline retail building that faces Rand Road immediately.

This request for a subdivision is really born out of what we anticipate to be a two-phased effort. By that, I mean upon subdivision of the property, the Applicant intends to convey these three proposed lots, again the Olive Garden, Chili's and inline retail building, to two separate property owners with one of those property owners acquiring both restaurant parcels and the second property owner acquiring the inline retail parcel. The intention really is to bring new capital investment into the shopping center, bring new ownership interests, new parties to the mix, and then ultimately afford the Applicant, the current property owner of this subject property with some increased financial flexibility relative to the additional seven and three-quarter acres and the shopping center that it owns as I described on the previous slide. So, again going back to that quickly, I'm referring specifically to the portion of the shopping center that's on the north side of the Bif Furniture Store and the south side of the furniture store.

So, this is the proposed final plat of subdivision. As I mentioned, there are three proposed lots with lots 1 and 3 being approximately the same land area of 1.85 and 1.95 acres respectively, and lot 2 being the Chili's parcel being approximately a half an acre for a total overall land area of approximately four and a quarter acres.

This is the existing conditions exhibit that I just circulated, so it's perhaps more clear on the hard copy that you have. What is intended to be illustrated here is that there are, number one, no improvements being proposed. All that is entailed with this proposed subdivision is of course drawing invisible lines that will be indiscernible to anyone who doesn't have knowledge of the fact that the subdivision exists. Also, as you can see from the building footprints that are depicted and the associated accessory parking that supports those buildings, the proposed lots are compliant relative to all applicable code and yard requirements. So, there is

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no issue with respect to lot lines, for example, like cutting through a building or doing something that would create a nonconformity simple as a consequence of the subdivision.

So, because there are no proposed modifications made relative to this request alone, we have requested also a variation from the other applicable requirement, that we provide a parking and traffic study or a parking and traffic engineer's opinion relative to the sufficiency and suitability of those existing elements. Obviously, if nothing is proposed to be changed; there should be no need to evaluate the sufficiency of parking and the sufficiency of traffic circulation throughout the site.

As I mentioned, there is an existing reciprocal easement agreement, or REA, which covers the entire shopping center that provides for the ability, for example, for patrons and employees of the Olive Garden parcel to park, for example, on the Chili's parcel, and vice versa for the Chili's patrons and employees to park in the Olive Garden parcel, as well as other portions of the shopping center, all as covered under the REA.

As you indicated, Mr. Chairman, we have reviewed the conditions of approval. We acknowledge that they differ from those that were presented in the original Staff report of the January 25th meeting. Those changes are really a function of ensuring that the conditions are not only workable for both the Applicant but also of course we've got other parties here, and the contract purchaser, so we had to ensure that those conditions were equally acceptable to those parties as the future owners of the proposed lots.

So, with that, I'm happy to take any questions about anything I've stated or not stated.

CHAIRMAN LORENZINI: Yes, you may have a seat for now. We'll do the Staff report next.

MR. BAUER: Thank you.

CHAIRMAN LORENZINI: Thank you. Sam, Staff report?

MR. HUBBARD: Yes. Thank you, Chairman Lorenzini. So, Staff did not have too many major concerns with this one. There were a few items that we did identify moving on the process and we did discuss it at the Plat & Subdivision meeting. One of them was relative to the REA. We wanted to make sure that the REA did provide for adequate shared parking, shared access as the property lines would not continue between the viaduct and the proposed subdivision. We have since verified that and it does provide for these shared access and elements, so we were satisfied that this was not an issue. Really that was one of our main concerns.

We did recommend some conditions of approval as well and I'm happy to get into those if you'd like. But this was kind of a, as you've heard, there's really no proposed improvements. The subdivision, everything is going to remain the same, it's just the dividing up on lot lines. So, there weren't too many concerns after verifying that the reciprocal easement agreement did provide for the shared elements.

The only other thing I think worth mentioning is that this property is within a TIF District, so there are some goals to redevelop this area in the future. So, the introduction of additional owners within the entire Southpoint Shopping Center could potentially complicate that future redevelopment. So, one of the conditions that was present in our original Staff report from the last meeting was that, we asked the Petitioner to make all contract purchasers aware that we will be potentially rezoning the site and that there were some additional redevelopment opportunities there. That condition has been removed regarding the rezoning

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because the Petitioner has agreed to provide a letter which was included in the packet to the contract purchasers of the site that rezoning is contemplated, and he is aware that, you know, there is going to be redevelopment here as within the TIF. So, that is acknowledged as a condition of approval there as well.

So, we don't want to belabor this one, I think it's just dividing up lot lines. Our concerns have been addressed at this point and we're supportive of the project.

CHAIRMAN LORENZINI: Thank you, Mr. Hubbard. Recommendation to include the Staff report into the public record?

MR. HUBBARD: So moved.

CHAIRMAN LORENZINI: Second?

COMMISSIONER DAWSON: Second.

CHAIRMAN LORENZINI: All in favor?

(Chorus of ayes.)

CHAIRMAN LORENZINI: Opposed?

(No response.)

CHAIRMAN LORENZINI: Thank you. Okay, we're going to have questions from the Commissioners. Now, Commissioner Jensen, would you like to start?

COMMISSIONER JENSEN: I was involved in the Plat & Sub, so I really don't have too much that I really want to go in to. One of the major issues of course was originally you had proposed the road that went between the two major roads as a fourth lot. You've done away with that and now you've incorporated it into lot 3 as I understand it. I'm still not sure what the, I wasn't sure what the significance of having a fourth lot was, but maybe someone can explain to me what now it means that we've incorporated it into a third lot. So, I guess it belongs to those inline retail stores rather than either of the restaurants.

MR. BAUER: That's right. Sam, can you go back to that slide with the plat on it please? Yes, so as you can see, Commissioner, and as you've properly indicated, the proposed lot 3 includes not only the ingress/egress point off of Rand Road but also one half of the internal circulation drive or ring road, whatever you want to characterize it as. That is consistent with not only the property boundaries of what this Applicant owns but also reflective of the existing tax parcel configuration. So, now what you see is entirely consistent with the way the property has been divided from a tax perspective, so there won't be any type of tax implication relative to this subdivision.

Really, we're just trying to maintain the status quo. The intention initially, as I think I tried to explain during the Plat & Subdivision Committee meeting, is that there was a belief that there was perhaps a benefit to retaining ownership of that access parcel for lack of a better term back at the time that the fourth lot was proposed for purposes of the remaining seven and three-quarter acres that I referenced earlier just to enhance the overall developability and attractiveness of that site. We have since determined that that's immaterial for purposes of redevelopment.

COMMISSIONER JENSEN: Okay, great. Thank you for explaining that then. At this time, I don't have any other questions so I'll pass it on to the other Commissioners.

CHAIRMAN LORENZINI: Commissioner Green?

COMMISSIONER GREEN: I really don't have any questions. I think that the TIF was my only question and you answered that.

CHAIRMAN LORENZINI: Thank you. Commissioner Drost?

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COMMISSIONER DROST: I don't have any questions.

CHAIRMAN LORENZINI: Commissioner Dawson?

COMMISSIONER DAWSON: The only question I have is on the easement agreement. You said it's being updated. Are you only addressing the maintenance elements or the access? Is there any anticipated change to the access points?

MR. BAUER: So, I hope I didn't say that because that's not true. We're not proposing to --

COMMISSIONER DAWSON: No, you did not. I was making an assumption.

MR. BAUER: We're not proposing to modify the easement agreement in any respect. It's not necessary.

COMMISSIONER DAWSON: Okay.

MR. BAUER: Because it already provides for sufficient access. One of the conditions of approval, the first condition, I don't know, Sam, if you want to go back to that slide, specifically provides for ensuring that the REA, if and whenever amended, must continue to provide sufficiently for continued access as well as shared parking and other elements throughout the site.

COMMISSIONER DAWSON: All right, so you did state that their easement was old and needed to be updated, so that's where I got that from. You may not have any current plans is what you're saying?

MR. HUBBARD: In the Plat & Sub meeting, I think we discussed that it was going to be potentially --

COMMISSIONER DAWSON: Maybe that's where, I got it from the Plat & Sub minutes.

MR. BAUER: Oh, yes. We contemplated revising it for the benefit of the overall shopping center, but not simply as a function of this proposed subdivision. It was really for the benefit of the overall shopping center. Sam has seen it as well as other Village Staff. It's a very voluminous document that's quite antiquated because at the time it was initially drafted it contemplated development of the shopping center which of course has long since occurred. So, we were really intending to clean it up and make it much more user friendly and functional for the benefit of the overall redevelopment of the shopping center.

COMMISSIONER DAWSON: Okay, and Sam, as you drafted this, I'm certain of your answer but I just want to hear it, you're confident that the language to satisfy all applicable code requirements is enough to protect us to make sure that there is sufficient easement access or mutual access for all properties? We don't need to add language to that point?

MR. HUBBARD: Correct, yes.

COMMISSIONER DAWSON: Okay, no other questions.

CHAIRMAN LORENZINI: Sam, I have a question. So, to summarize condition 3, basically we're saying this is a TIF District, we want their cooperation on any future development but they maintain all their rights. Give me an example of what we would need them to do.

MR. HUBBARD: I think we're just trying to foster a spirit of cooperation among all owners within the shopping center and all future owners. I don't know as if there is any redevelopment plan or a specific item that we're asking for cooperation on at this point.

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CHAIRMAN LORENZINI: All right, that's fine. Okay, that's all I had. So, we'll move to the public portion of the meeting now. Anybody from the public in attendance have any questions, comments, concerns? Getting none, we'll close that and go back to the Commissioners for final comments and deliberation.

COMMISSIONER DROST: I'll make a motion.

A motion to recommend to the Village Board of Trustees approval of PC# 16-025, a Preliminary and Final Plat of Subdivision, and a Variation to Section 29-201a(5) of Chapter 29 of the Municipal Code to waive the requirement for a traffic and parking analysis on the subject property.

This approval shall be subject to the following conditions:

- 1. The existing reciprocal easement agreement, inclusive of all amendments therefore (REA), which is recorded against the Southpoint Shopping Center and provides for shared parking, cross access, and shared maintenance and access to common utilities and signage shall remain in effect. If changes to the REA are executed, any such changes shall continue to make adequate provisions for those elements so as to continue to satisfy all applicable Village of Arlington Heights code requirements.**
- 2. Unless the Petitioner is able to demonstrate prior payment to the Village in the amount of \$6,736 in accordance with Ordinance No. 79-159, the Petitioner shall pay that fee to the Village prior to Village Board adoption of the resolution approving the final plat of Southpoint resubdivision.**
- 3. By virtue of the Southpoint Shopping Center's location within TIF Redevelopment Project Area No. 5, the Village is desirous of facilitating appropriate redevelopment opportunities of all or portions of the shopping center. To that end, the owner(s) of Lots 1, 2 and 3 of the Southpoint resubdivision shall, upon request of the Village, reasonably cooperate with the Village in the Village's review of any appropriate future redevelopment plans for all or any portion of the shopping center; provided, however, this condition shall not be construed as a waiver of such property owner(s) rights and obligations pursuant to law, including, without limitation, the Village's zoning regulations and the existing reciprocal easement agreement, inclusive of all amendments thereto, recorded against the Southpoint Shopping Center.**
- 4. The Petitioner shall comply with all applicable federal, state and Village codes, regulations and policies.**

CHAIRMAN LORENZINI: Is there a second?

COMMISSIONER DAWSON: Second.

CHAIRMAN LORENZINI: Roll call please.

MR. HUBBARD: Commissioner Dawson.

COMMISSIONER DAWSON: Yes.

MR. HUBBARD: Commissioner Drost.

COMMISSIONER DROST: Aye.

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MR. HUBBARD: Commissioner Green.

COMMISSIONER GREEN: Yes.

MR. HUBBARD: Commissioner Jensen.

COMMISSIONER JENSEN: Yes.

MR. HUBBARD: Chairman Lorenzini.

CHAIRMAN LORENZINI: Yes. Congratulations, you received a unanimous approval. This is going to the Board of Trustees. Sam, is there a date?

MR. HUBBARD: Yes, I don't know quite the date yet, but it will go at the next available meeting. We're anticipating properly next meeting this month or first meeting in April.

CHAIRMAN LORENZINI: Okay, so thank you. That's it.

MR. BAUER: Thank you.

(Whereupon, the public hearing on the above-mentioned petition was adjourned at 7:56 p.m.)