

ORDINANCE NO. 12-36

***An Ordinance Zoning and Granting Certain Special Uses
for the Property Commonly Known as the GAT Guns Property
with an Address of 14N915 Illinois Route 25***

WHEREAS, the Village of East Dundee, an Illinois home rule municipal corporation located in Kane and Cook counties (the "Village"), has been requested in a written petition signed by GAT Properties, an Illinois limited liability company formerly known as Our Secret LLC (the "Petitioner") that, upon annexation, certain property located on the east side of Illinois Route 25 and legally described in Section 2 of this Ordinance (the "Property"), be zoned B-3, General Service Business District, and granted certain special use permits on the terms and conditions set forth below; and

WHEREAS, a public hearing was held before the Planning and Zoning & Historic Commission after due notice as provided by law; and

WHEREAS, the Board of Trustees has considered the evidence, including but not limited to that presented at the public hearing to the Planning and Zoning Commission and believe that the zoning classification and the special use permits described below will be in the best interests of the Village; and

WHEREAS, the President and Board of Trustees have also considered the conceptual site plan prepared by Doland Engineering, LLC, consisting of seven pages (the "Plan") dated May 4, 2012 for the Property.

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of East Dundee as follows:

SECTION 1: The Board of Trustees hereby adopts and makes the following findings of fact relative to the request for B-3, General Service Business District, zoning for the Property and adopts those made by the Commission:

- (1) Existing uses of property within the general area of the property in question;

Illinois Route 25 is a commercial corridor providing a variety of uses ranging from recreation to retail sales, which are complimented by the existing use on the Property. While there are non-commercial uses along Illinois Route 25, the predominant nature of such uses are those providing services to the public.

- (2) The zoning classification of property within the general area of the property in question;

Several properties in the general area are either zoned B-3, General Service Business District, or provide the uses found in that zoning classification.

- (3) The suitability of the property in question to the uses permitted under the existing zoning classification; and

The existing uses on the Property are acceptable and appropriate uses in the B-3, General Service Business District and are an appropriate fit given its frontage on Illinois Route 25.

- (4) The trend of development, if any, in the general area of the property in question, including changes, if any, which have taken place since the day the property in question was placed in its present zoning classification.

As the area has developed into a commercial corridor many of the existing uses have become successful retail and office uses, many of which provide services and goods to the general public as well as nearby residential neighboring uses.

SECTION 2: The following legally described territory (the "Property") shall be zoned B-3, General Service Business District, pursuant to the terms of the East Dundee Zoning Chapter:

Parcel One: Lots A, 5, 6, 9, 10, 13 and 14 of Fox River Bluffs Unit No. 3 in the Township of Dundee, Kane County, Illinois; and

Parcel Two: The south half of that part of Sections 25, 26, 35 and 36, Township 42 north, Range 8, east of the Third Principal Meridian, described as follows: commencing at the common corners of the above sections; thence north along the west lot of Section 25, 9.7 feet; thence northwesterly 124.15 feet on a line making an angle of 80 degrees, 51 minutes, 0 seconds, to the northwest with the west line of said Section 25, to the center line of the Elgin-Dundee Road for a point of beginning; thence southeasterly along said last course 380 feet on a line making an angle of 89 degrees, 58 minutes, 0 seconds to the southeast with the center line of Elgin-Dundee Road; thence southwesterly parallel with the center line of said road 343.9 feet; thence northwesterly 380 feet on a line making an angle of 89 degrees, 58 minutes, 0 seconds to the northwest with said last described line to the center line of the Elgin-Dundee Road; thence northeasterly on the center line of said road 343.9 feet to the point of beginning, in Kane County; and

Parcel Three: A part of the northwest quarter of Section 36, Township 42 north, Range 8 east of the Third Principal Meridian, described as follows: commencing at the northeast corner of Lot 14 of Fox River Bluffs Unit Number 3, as laid out and plotted of record, for a point of beginning; thence westerly along the northerly line of said Fox River Bluffs Unit Number 3, 369.75 feet; thence northerly at right angles with said last mentioned course and along the easterly line of land now owned by Walter Eseling, a distance of 171.95 feet; thence easterly and parallel with the northerly line of said Fox River Bluffs Unit Number 3, a distance of 369.75 feet; thence southerly in a straight line to the point of beginning, in Kane County, Illinois.

SECTION 3: The following special uses, subject to the conditions and restrictions imposed herein and in the Annexation Agreement between the Village and the Petitioners, which shall be in substantial conformance with the Plan, are hereby granted for the Property:

- a. The continued operation and expansion of the existing retail business engaged in the sale of, among other items, sporting goods, firearms and ammunition, and an indoor pistol and archery range; and
- b. The operation of a firearms, weapons and martial arts training facility in substantial conformance with the Plan; and
- c. The expansion of the indoor shooting (including both pistols and rifles) and archery range in substantial conformance with the Plan.

SECTION 4: The Board of Trustees hereby makes the following findings of fact with respect to the requested special use permits for the Property and also adopts those made by the Commission:

1. The uses permitted by the exceptions are necessary or desirable and are appropriate with respect to the primary purpose of the development;

The existing retail business and shooting range, as well as the planned expansion, on the Property are consistent with existing uses in the area insofar as the trend of growth and development on the relevant portion of Illinois Route 25 is retail and serving the public. These proposed special uses are consistent with the Village's Comprehensive Plan. The indoor shooting ranges serves sports enthusiasts and draws clientele from a wide geographic area.

2. The uses permitted by the exception are not of such a nature or so located as to exercise a detrimental influence on the surrounding neighborhood;

Due to development around the Property in the past decade, the special uses on the Property are appropriate for the commercial corridor on Illinois Route 25, which are utilized by patrons of these special uses rather than access coming through residential neighborhoods which would avoid excessive traffic coming through any residential neighborhood to the Property and will not have an adverse or detrimental influence or impact on the surrounding neighborhoods.

The Property is currently operated as a retail business engaged in the sale of, among other items, sporting goods, firearms and ammunition, and as an indoor pistol and archery range and the proposed expansion is a natural extension for the Property.

3. Not more than 20% of the ground area or of the gross floor area of the development shall be devoted to the uses permitted by the exception;

The Board of Trustees is of the opinion that this standard has been met. The proposed special uses are subject to final plans to be approved by the Village to enable the Village to insure that this re-

quirement is met. Based on witness testimony, it is anticipated that the proposed uses will not exceed 20% of the ground area of the development.

4. In an industrial planned development, the additional uses allowed by exception shall conform with the performance standards of the district in which the development is located;

This criteria is inapplicable insofar as there is no request for an industrial planned development.

5. The use exceptions so allowed are reflected by the appropriate zoning district symbols and so recorded on the zoning district map;

The Village's zoning map will be amended to reflect such uses upon any approval by the Board of Trustees.

6. The special uses will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood;

While the special uses are of a more intense nature than permitted uses, the distance between the buildings and the property lines lead this Board of Trustees to believe that the proposed special uses will not be injurious to the use and enjoyment of other property in the nearby vicinity. This belief is reinforced by Village ordinances in effect and the uses would remain subject to general Village ordinances. No convincing testimony was provided which would demonstrate that property values in any neighborhood proximate to the Property would be impaired or substantially diminished.

7. The establishment of the special uses will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;

Insofar as some of the structure and facilities are already on the Property, with direct access from Illinois Route 25, the testimony reflects that in no way will the normal, orderly development and improvement of surrounding property be impeded.

8. Adequate utilities, access roads, drainage or necessary facilities have been or will be provided;

The plans for the Property on which the special uses are requested have or will provide for the extension of sanitary sewer and potable water mains to the Property. Insofar as the Property is situated on Illinois Route 25, an adequate access road is in place for each of the approved special uses. The Board of Trustees believes that the testimony reflects that drainage will be handled in accordance with all applicable standards. No testimony was provided that any of the proposed utilities, means of access or drainage facilities will be deficient in any manner.

9. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets;

Judging from the evidence at the hearing and the personal knowledge of the Board of Trustees relative to the Property, it is our conclusion that adequate measures are in place to minimize traffic congestion by the use of proposed turn in lanes on Illinois Route 25 and that the highest level of activity will be in the evenings or on the weekends so as to minimize any increase of traffic during weekday "rush hours" when commuter traffic is at its peak.

10. The special uses shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the President and Board of Trustees.

SECTION 5: All other requirements set forth in the East Dundee Zoning Chapter, as would be required by any owner of property zoned in the same manner as the Property, shall be complied with, except as otherwise provided in the Annexation Agreement between the Village and the Owner.

SECTION 6: The Plan prepared by Doland Engineering, LLC, dated May 4, 2012, and consisting of seven pages, attached hereto, is hereby approved for the Property subject to and contingent upon the parking lot being set back 30 feet from the right of way.

SECTION 7: If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate or nullify the remainder thereof, which remainder shall remain and continue in full force and effect.

SECTION 8: All ordinances or parts of ordinances in conflict herewith are hereby repealed, to the extent of such conflict.

SECTION 9: Pursuant to the Village's home rule powers, this Ordinance shall be in full force and effect as of July 1, 2012 at 12:00 a.m. due to the urgency of increasing the Village's revenues and enhancing its tax base, and publication of this Ordinance is hereby authorized as provided by law.

Ayes: 7 - Justices Gorman, Ruffulo, Lynnam, Miller, VanOrdenbridge, Skellicorn & Pres. Bartels
Nays: 0
Absent: 0
Abstain: 0

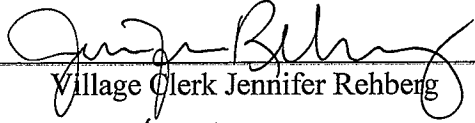
APPROVED:



Village President Jerald Bartels

(SEAL)

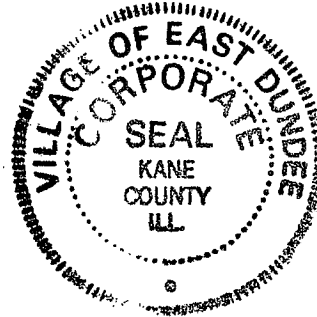
ATTEST:


Village Clerk Jennifer Rehberg

Passed: 6/30/12

Approved: 6/30/12

Published: 7/7/12



Prepared by/Mail to:

Michael J. Smoron

Zukowski Rogers Flood & McArdle

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815.459.2050

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CERTIFICATION

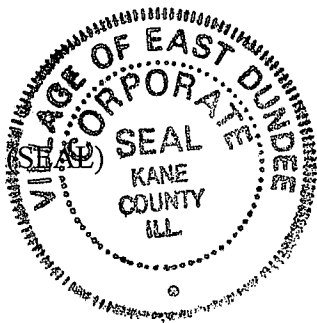
I, JENNIFER REHBERG, do hereby certify that I am the duly appointed, acting and qualified Clerk of the Village of East Dundee, Kane County, Illinois, and that as such Clerk, I am the keeper of the records and minutes and proceedings of the President and Board of Trustees of said Village.

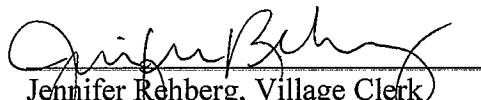
I do hereby further certify that at a regular meeting of the President and Board of Trustees of the Village of East Dundee, held on the 30th day of June, 2012, the foregoing Ordinance entitled *An Ordinance Zoning and Granting Certain Special Uses for the Property Commonly Known as the GAT Guns Property with an Address of 14N915 Illinois Route 25*, was duly passed by the President and Board of Trustees of the Village of East Dundee.

The pamphlet form of Ordinance No 12-36, including the Ordinance and a cover sheet thereof, was prepared, and a copy of such Ordinance was posted in the East Dundee Village Hall, 120 Barrington Avenue, East Dundee, IL, commencing on the 7th day of July, 2012, and continuing for at least 10 days thereafter. Copies of such Ordinance were also available for public inspection upon request in the office of the Village Clerk.

I do further certify that the original, of which the attached is a true and correct copy, is entrusted to me as the Clerk of said Village for safekeeping, and that I am the lawful custodian and keeper of the same.

IN WITNESS WHEREOF, I have affixed my name as Clerk and caused the seal of said Village to be affixed hereto this 7th day of July, 2012.




Jennifer Rehberg, Village Clerk
Village of East Dundee,
Kane County, Illinois