

**ORDINANCE NUMBER 07 - 51**

**ORDINANCE GRANTING APPROVAL OF A PLANNED UNIT DEVELOPMENT PRELIMINARY DEVELOPMENT PLAN FOR THE PROPERTY GENERALLY KNOWN AS THE 119<sup>+/-</sup>-ACRE PROPERTY LOCATED ON THE NORTH SIDE OF ROUTE 72, EAST OF ROUTE 25 IN THE VILLAGE OF EAST DUNDEE, ILLINOIS**

**WHEREAS**, the Village of East Dundee is a home rule unit of local government under and pursuant to Section 6 of Article VII of the Constitution of the State of Illinois, has the authority to exercise any power and perform any function pertaining to its government and affairs, including but not limited to the power to regulate for the protection of the public health, safety, morals, and welfare; and

**WHEREAS**, application has been made by Peter Bazos (“Applicant”) as agent for Pal Land, L.L.C. (“Owner”) under Petition No. P/Z 07-04-02 for approval of a Planned Unit Development Preliminary Development Plan for the Future Land Use Plan map and the Eastern Growth Specific Area Plan text and map for the 119<sup>+/-</sup> acre parcel generally located on the North Side of Route 72, East of Route 25 in the Village of East Dundee; and

**WHEREAS**, the Planning and Zoning Commission (hereinafter the “Commission”) of the Village of East Dundee, pursuant to notice and pursuant to the East Dundee Code of Ordinances, Chapter 156.05(B)(3) held a hearing on April 12, 2007, on Petition No. P/Z 07-04-02; and

**WHEREAS**, pursuant to said hearing, the Commission approved the Petition by a vote of 8 ayes, 0 nays, and 1 absent, and adopted specific Findings of Fact concerning the application of standards for the subject property, a copy of these Findings of Fact are attached hereto as Exhibit “A” and incorporated by reference as if fully set forth herein.

NOW THEREFORE BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF EAST DUNDEE, KANE AND COOK COUNTIES, ILLINOIS, AS FOLLOWS:

**Section One.** That the Findings of Fact of the Commission are hereby approved and adopted and that the Preliminary Development Plan for the Planned Unit Development approved by the Commission pursuant to Petition No. P/Z 07-04-02 be approved conditioned upon the submission of a complete comprehensive sign package providing freestanding, wall-mounted, shared, electronic and similar standards for all lots within the subdivision prior to or concurrent with the first application for a final development plan approval; a complete application for a preliminary plat approval including a proposed cross-section of the Christina Drive right-of-way and all improvements (including landscaping) to be located therein prior to or concurrent with the first application for a final development plan approval; and documentation providing for the perpetual maintenance of the landscaping to be located within the Christina Drive right-of-way by the land owners within the subdivision concurrent with the submittal of an application for a preliminary plat approval.

**Section Two. Severability.** If any section, paragraph or provision of this ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this ordinance.

**Section Three. Repeal.** All ordinances, resolutions, motions or parts thereof in conflict herewith shall be and the same are hereby repealed.

**Section Four. Publication.** This ordinance shall be in full force and effect forthwith upon its adoption, approval and publication in pamphlet form as provided by law.

Adopted this 17 day of December, 2007, pursuant to a roll call vote as follows:

AYES:

6 (Gorman, Carlini, Lynam, Cichowski, Mahony, & O'Leary)

NAYES:

0

ABSENT:

1 (Buffalo)

Approved by me this 17 day of December, 2007.

Daniel O'Leary  
DANIEL O'LEARY, President

Published in pamphlet form this 18 day of Dec, 2007, under the authority of the President and Board of Trustees.

ATTEST:

Susan Norton  
SUSAN NORTON, Village Clerk

Recorded in the Village Records on Dec 18, 2007.

**VILLAGE OF EAST DUNDEE, KANE COUNTY, ILLINOIS  
PLANNING AND ZONING COMMISSION**

Application of PAL LAND, LLC (Joseph L. Palumbo, Manager), as )  
owner, and Peter Bazos, as agent, for approval of the following for )  
a 119<sup>+/-</sup>-acre property located on the north side of Route 72, east )  
of Route 25 for: amendments to the Comprehensive Plan, )  
including the Future Land Use Plan map and the Eastern Growth ) P&Z File No. 07-04-02  
Area Specific Area Plan text and map; rezonings from R-1 and )  
B-2 to M-1, and; a planned unit development preliminary )  
development plan, including several requests for modifications )  
and variations. )

**To:** The Honorable Gerald Bartels, Present  
And Board of Trustees

**REPORT OF FINDINGS OF FACT AND RECOMMENDATION**

**WHEREAS**, the Applicant, PAL LAND, LLC (Joseph L. Palumbo, Manager),  
as owner, and Peter Bazos, as agent, (the "Applicant"), has applied for:

- Amendments to the Comprehensive Plan including the Future Land Use Plan map and the Eastern Growth Area Specific Area Plan text and map;
- Rezonings from R-1 and B-2 to M-1;
- A planned unit development preliminary development plan including several requests for modifications and variations.

for a mixed-use subdivision on a 119<sup>+/-</sup>-acre property generally located on the north side of Route 72, east of Route 25 in the Village of East Dundee, Illinois ("Subject Property"); and

**WHEREAS**, the Planning and Zoning Commission of the Village of East Dundee conducted a public hearing to consider the application on April 12, 2007; and

**WHEREAS**, notice of the hearing on the application was duly published as required by law; and

**WHEREAS**, various exhibits prepared by the Applicant describing the Project in more detail were presented and entered into the record at the public hearing along with the testimony and evidence presented by others, all of which are set forth in the minutes, transcript, and exhibits contained in P&Z File No. 07-04-02 maintained by the Village Clerk's office (the "Project File"); and

**WHEREAS**, Sections 157.223 and 157.245 of the Village Code provide that applications for rezonings and preliminary development plans, respectively, may be granted by the Board of Trustees after a public hearing before the Planning Zoning Commission and receipt of a report of the Planning and Zoning Commission's findings and recommendations.

**NOW THEREFORE**, the Village of East Dundee Planning and Zoning Commission makes the following findings of fact and recommendations relative to the subject application for amendments to the Comprehensive Plan, rezonings, and preliminary development plan, including several requests for modifications and variations:

**SECTION 1.** The Recitals set forth above constitute a material part of this Findings of Fact and Recommendation Report as if set forth in their entirety in this Section 1.

**SECTION 2.** All exhibits, testimony and evidence presented at the public hearing and contained in the Project File also are incorporated herein by reference.

**SECTION 3.** Consistent with all of the exhibits in the Project File, the proposed mixed-use subdivision project (the "Project") is generally described as a 119<sup>+/-</sup>-acre subdivision consisting of a mix of commercial and light industrial uses along with a north-south road to be named "Christina Drive" connecting to IL Highway 72 at the south end of the property and a future extension of Rock Road at the north end of the property.

**SECTION 4.** Section 157.223 of the Village Code provides procedures and requirements for amendments to the zoning classification of a property. The entire area of the Subject Property is proposed to be rezoned to M-1, Limited Manufacturing District.

**SECTION 5.** Section 157.245 of the Village Code provides procedures and requirements for the approval of preliminary development plans for planned unit developments, including modifications to certain provisions of the standards of the underlying zoning district.

**SECTION 6.** In accordance with Section 157.241(E), the Applicant has requested the following six modifications to the standards of the proposed underlying zoning districts:

- A. *Use modifications:* A modification to permit a full range of light industrial and commercial uses throughout the property. The proposed use list includes most all uses permitted in the M-1 and B-2 districts, as well as others from B-4 as detailed in the Applicant's initial application and addendum letter.
- B. *Permitted uses along IL Highway 72 frontage:* A modification to restrict uses within a 300-foot deep strip along IL Highway 72 to only those uses permitted in the B-2 district for a period of three years from the date of approval of the preliminary development plan. After that time, any of the other uses permitted within the Project may be located within the 300-foot deep strip.
- C. *Building setbacks:* A modification to permit a 40-foot minimum front setback and 20-foot minimum setbacks on the sides and rear of all lots within the subdivision.
- D. *Parking setback:* A modification to permit parking in the required front yard setback with a setback of ten feet.

- E. *Business district signage*: A modification to permit the signage standards applicable to business districts (as provided in Chapter 156 of the Village Code) apply to all lots within the subdivision regardless of use.
- F. *Freestanding signage*: A modification to have the standards for freestanding signs included in Village Ordinance 06-46 apply to all lots within the subdivision with the exception that electronic signs shall be prohibited except as permitted in said Ordinance.

**SECTION 7.** Section 157.246 of the Village Code provides procedures and requirements for the approval of variations to provisions of the standards of the underlying zoning district as part of the review and approval of a preliminary development plan.

**SECTION 8.** In accordance with Section 157.246, the Applicant has requested the following three variations to the standards of the underlying zoning district:

- A. *Sec. 157.240(F)(3) – Location of utilities*. A variation to permit all utility connections (including electric, telephone, gas and cable) to lots and buildings located west of Christina Drive to be installed above-ground in lieu of the requirement to have all utilities located underground provided that all such overhead connections shall be made in the rear (east side) of said lots and buildings.
- B. *Sec. 157.240(I)(9) – Landscape coverage*. A variation to permit the landscape standards of Sec. 158.04(D) of the Village Code to apply to all lots within the subdivision in lieu of the landscape coverage standards contained in the captioned section.
- C. *Sec. 157.240(J)(2) – Minimum open space area*. A variation to permit the minimum open space area for the Subject Property to be reduced to 5% in lieu of the 10% required by the captioned section.

**SECTION 9.** Based on the testimonial evidence presented at the Public Hearing, the completed application forms and materials submitted to the Village by the Applicant, the Planning and Zoning Commission finds the following with respect to the Applicant's proposal and in so doing, finds that the Project meets the standards for an amendment to comprehensive plan, rezonings, and a preliminary development plan for a planned unit development, subject to the conditions described in Section 10, herein:

- A. With respect to the proposed comprehensive plan amendments to revise the Future Land Use Plan map and the Eastern Growth Area Specific Area Plan text and map consistent with the layout, uses, and density and intensity of the proposed Project, the Planning and Zoning Commission finds that:
  - 1) The amendments are consistent with all other portions of the adopted Comprehensive Plan;
  - 2) The amendments are reasonable and necessary to the promotion of public health, safety, morals and general welfare; and,
  - 3) The amendments are in the public interest and are not solely for the interest of the Applicant.

- B. With respect to the proposed rezonings from R-1 and B-2 to M-1, the Planning and Zoning Commission finds that:
- 1) The proposed rezonings are compatible with existing uses of property within the general area of the Subject Property;
  - 2) The proposed rezonings are compatible with the zoning classifications of property within the general area of the Subject Property;
  - 3) The Subject Property is not suitable for the uses permitted under the existing zoning classification;
  - 4) The proposed rezonings are compatible with the trend of development in the general area;
  - 5) The proposed rezonings are consistent with the adopted Village comprehensive plan as proposed to be amended; and,
  - 6) The proposed rezonings are in the public interest and are not solely for the interest of the Applicant.
- C. With respect to the proposed preliminary development plan for a planned unit development, the Planning and Zoning Commission finds that:
- 1) The proposed preliminary development plan complies with all applicable planned unit development standards;
  - 2) The proposed preliminary development plan is consistent with the Comprehensive Plan as proposed to be amended, including the density and intensity of development, and the actual text, maps and drawings in the Comprehensive Plan, as proposed to be amended;
  - 3) The proposed preliminary development plan is compatible with the existing uses and zoning district classifications of nearby property;
  - 4) The proposed preliminary development plan is suitable for the Subject Property and uses permitted under the proposed zoning classifications;
  - 5) The proposed preliminary development plan is consistent with land development conditions in the vicinity of the Subject Property given the length of time the property has been vacant as currently zoned;
  - 6) There are changed and changing conditions in the vicinity of the Subject Property that make the proposed preliminary development plan reasonable and necessary to the promotion of public health, safety, morals and general welfare;
  - 7) That adequate public facilities including, but not limited to, schools, parks, police and fire protection, roads, sanitary and storm sewers, water lines, exist or will be provided concurrent with the development of the Project; and,
  - 8) The proposed preliminary development plan does not lessen or impede the suitability for the permitted use and development of, nor is it injurious to the use and enjoyment of, nor substantially diminish or impair the value of, nor is incompatible with, other property in the immediate vicinity.
- D. With respect to all of the proposed modifications to the regulations of the proposed underlying zoning districts as described in Section 6, herein, the Planning and Zoning Commission finds that the proposed preliminary development plan for a planned unit development provides the following:
- 1) Sufficient mitigation such that the protection of the use and enjoyment of neighboring properties is equal to or greater than that afforded were the regulations not modified;

- 2) Sufficient mitigation such that the protection of the use and enjoyment of lots and sites within the proposed development is equal to or greater than that afforded were the regulations not modified;
  - 3) The following amenities in excess of what would otherwise be required by Village codes in a sufficient quality and/or quantity that, on the whole, provide greater community benefits than if the modifications were not granted:
    - a) Enhanced open space areas and environmental/natural preservation areas;
    - b) Enhanced community facilities beyond those necessary to serve the proposed development;
    - c) Outstanding landscape design; and/or,
    - d) Enhanced buffering, screening and integration with surrounding development.
- E. With respect to all of the variations to the regulations of the proposed underlying zoning districts as described in Section 8, herein, the Planning and Zoning Commission finds that the proposed preliminary development plan for a planned unit development provides the following:
- 1) The particular physical surroundings, shape or topographical conditions of the specific property involved would bring a particular hardship upon the owner as distinguished from a mere inconvenience if the regulations were strictly enforced;
  - 2) The conditions upon which the petition for the variations is based would not be applicable generally to other property within the same zoning classification;
  - 3) The purpose of the variations is not based exclusively upon a desire to make more money out of the property;
  - 4) The alleged difficulty or hardship has not been created by any person presently having an interest in the property;
  - 5) The granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located; and
  - 6) The proposed variations will not impair an adequate supply of light and air to adjacent property or substantially increase the danger of fire or otherwise endanger the public safety or substantially diminish or impair property values within the neighborhood.

**SECTION 10.** The Planning and Zoning Commission recommends approval of the requested Comprehensive Plan amendments, rezonings, and preliminary development plan (including all of the requested modifications and variations as described herein) for the Project on the express condition that the Applicant, owners and operators and any successor owners and operators of the Subject Property or any portion thereof comply with the following:

- A. The rezoning of a specific area of the Subject Property shall not be effective until a final development plan for the specific area is approved.
- B. The Applicant is strongly encouraged to submit a complete sign package providing freestanding, wall-mounted, shared, electronic and similar standards for all lots within the subdivision prior to or concurrent with the first application for a final development plan approval.



- C. Prior to or concurrent with the first application for a final development plan approval, the Applicant shall submit a complete application for a preliminary plat approval including a proposed cross-section of the Christina Drive right-of-way and all improvements (including landscaping) to be located therein.
- D. Concurrent with the submittal of an application for a preliminary plat approval, the applicant shall submit documentation providing for the perpetual maintenance of the landscaping to be located within the Christina Drive right-of-way by the land owners within the subdivision.

**SECTION 11.** On April 12, 2007, the Village of East Dundee Planning and Zoning Commission voted 8 to 0 to recommend the Project for approval based on the Findings of Fact and conditions as described in this Report.

Adopted on May 10, 2007, by:

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Chairman, Dave Swanson

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Member

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