

ORDINANCE NUMBER 11 - 23

**ORDINANCE EXTENDING THE TEMPORARY APPROVAL FOR THE OPERATION OF AN INDOOR FLEA MARKET ON PROPERTY LOCATED AT 203 NORTH CHRISTINA DRIVE IN EAST DUNDEE, KANE AND COOK COUNTIES, 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, Charles Black and Associates (hereinafter referred to as the "Developer") has proposed the locating of an indoor flea market within vacant industrial space located at 203 North Christina Drive, with the area to be occupied approximating 30,000 square feet of net leasable area; and

WHEREAS, the building is presently vacant, and the Village, the developer and the property owner are desirous of having an active use within the building; and

WHEREAS, the building, as presently constructed, does not fully meet applicable standards for retail uses, and the Village is willing to temporarily waive certain standards to facilitate the usage of the building, as proposed.

**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.** Notwithstanding provisions of zoning code, building code and other applicable codes and regulations, Village Board hereby agrees to temporarily set aside provisions of the East Dundee zoning code as follows:

- 157.142 Location and number of required off street parking spaces
- 157.050 J.2. All activities to be conducted entirely within an enclosed building
- 157.207 Jurisdiction of Zoning Board of Appeals

**Section Two.** Village Board further waives any and all requirements for indoor plumbing, including running water, and allows for the placement of porta-potties either inside or outside the building, at the discretion of the developer, and as approved by B & F Technical Services, provided however that developer shall comply with applicable ADA requirements for washroom facilities.

**Section Three.** Notwithstanding provisions in the zoning ordinance, the Village Board is granting temporary approval for the location of parking on property separate from the use being served, provided however that the developer shall be required to paint a cross walk on Christina Drive and to post proper signage.

**Section Four.** Use of the facility shall be conditioned upon recommendation from B & F Technical Services as to issuance of an occupancy permit, subject to applicable life safety requirements, including but not limited to

- Designated assembly and usage classification of area.
- Compliance with applicable lighting, HVAC, sprinkling and electric code requirements.
- Compliance with any and all required construction drawings and prints.
- Payment of all building permit fees, inspectional fees, plan review fees, and other costs as incurred by the Village

**Section Five.** Use of the facility shall be further conditioned by review and approval by the East Dundee Fire Protection District.

**Section Six.** The waivers and exceptions shall be extended from the original Ordinance 10-49 approved by the Village Board on October 18, 2010 for a period of an additional six months, beginning May 1<sup>st</sup>, 2011 and running through December 31<sup>th</sup>, 2011.

**Section Seven.** All merchants within the indoor flea market shall be required to obtain and maintain an itinerant merchant's license from the Village of East Dundee, and shall be further required to comply in all matters relative to the collection, processing and remittance of applicable state and local sales tax.

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

**Section Ten. 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 18<sup>th</sup> day of April, 2011, pursuant to a roll call vote as follows:

AYES: 5 - Justices Gorman, Lynam, Miller, Cichowski & VanOstenbridge

NAYES: 0

ABSENT: 2 - Justice Ruffalo & President Bartels

Approved by me this 18<sup>th</sup> day of April, 2011.

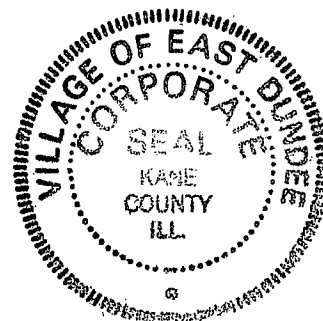
JERALD BARTELS, President

Paul VanOstenbridge, President Pro Tem

Published in pamphlet form this 24<sup>th</sup> day of April, 2011, under the authority of the President and Board of Trustees.

ATTEST: Jennifer Rehberg  
JENNIFER REHBERG, Village Clerk

Recorded in the Village Records on April 24<sup>th</sup>, 2011.



March 10, 2011

Robert Skurla  
Village Administrator  
Village of East Dundee  
East Dundee, IL 60018

Dear Bob,

As we discussed, the Village has allowed The Flea Markets temporary permission to use the Palumbo property on Rt. 72 (Higgins Road). Indoor use has been permitted through May 2011 and outdoors through September.

I request that the permits be combined to coincide through December 2011 so that they may run concurrently inside and out.

A drawing is attached for the request for a temporary permit for the Flea Markets to be extended coinciding temporary permission through this season. This is not a request for a permanent place of business at this location.

At this time Mr. Palumbo and his partners are still looking for more permanent warehouse tenants for the property however this will allow for them to collect some rent and utility expenses while looking and does not ask for a re-zoning of the building and property. Insurance coverage for the building and grounds has previously been obtained throughout this season.

This will also allow for the Flea Markets to attract a less transient type of marketer requiring a period contract for them to operate. We have had the property inspected prior by B & F Code Inspectors at your request and have been inspected by the Fire Department as to our compliance with the Village's and B & F's rules and codes.

We ask for this coordination of indoor and outdoor dates until the end of December 2011 and then will request an annual extension as required to either maintain operations or vacate the property as might be required by the owners. We are also willing to be at the next Village Meeting to describe our intentions if you would like.

Thank you.

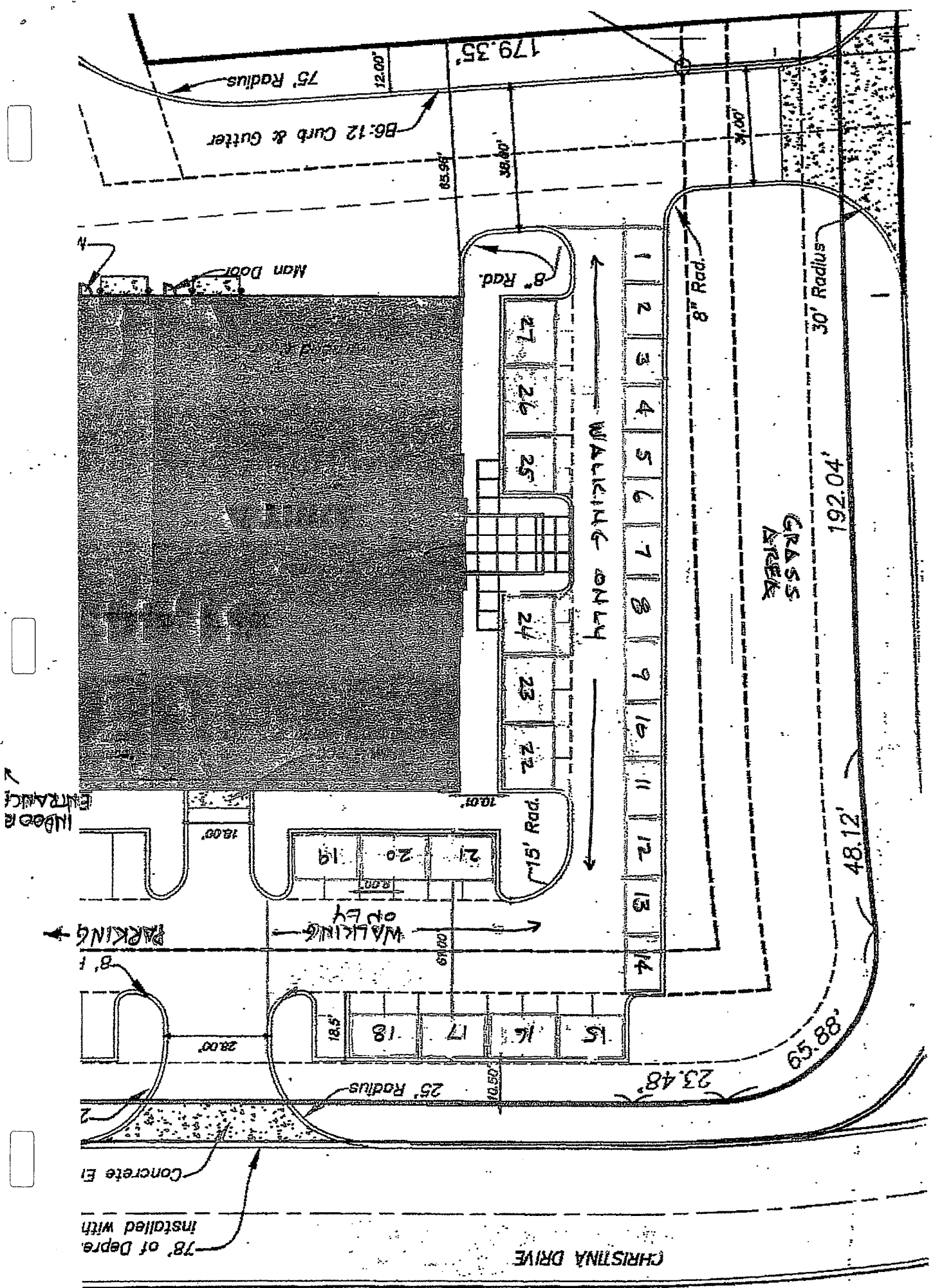
Sincerely,



Charles Black

Bob, my cell # is  
847-757-0447

HIGGINS ROAD ↗ RT. 72



CHRISTINA DRIVE

78' of Depre installed with

Concrete E

INBOARD ENTRANCE

PARKING ↗

8'1"

28.00'

25' Radius

0.50'

20.15'

WALKING ONLY

8.00'

10.03'

15' Rad.

18.00'

8' Rad.

WALKING ONLY

8' Rad.

30' Radius

192.04'

48.12'

GRASS AREA

B6:12 Curb & Gutter

75' Radius

12.00'

179.35'

0.55'

30.95'

34.00'

Main Door