

ORDINANCE NO. 05 - 24

**AN ORDINANCE GRANTING A SPECIAL USE AS
A B-4 AUTOMOTIVE SERVICE DISTRICT PLANNED
DEVELOPMENT FOR 1077 EAST MAIN STREET,
IN THE VILLGAE OF EAST DUNDEE**

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, a Petition for a Special Use as a Planned Development for the real estate described in Exhibit "A" attached hereto (hereinafter referred to as "Subject Realty"), has been filed with the Village of East Dundee, an Illinois municipal corporation ("VILLAGE"), by the following:

RAYMOND E. PLOTE, Member, Rental Systems, L.L.C., 1141 East Main Street, Suite 100, East Dundee, IL 60118

WHEREAS, the East Dundee Planning and Zoning Commission has held a public hearing on said petition in accordance with law; and

WHEREAS, the President and Board of Trustees of the VILLAGE has received the recommendation of the East Dundee Planning and Zoning Commission and has considered same.

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

SECTION 1: APPROVAL OF SPECIAL USE FOR PLANNED DEVELOPMENT.

Special Use as a B-4 Automotive Service District Planned Development subject to the variations, deviations, authorizations and restrictions provided herein be granted to the Subject Realty.

SECTION 2: DEVELOPMENT OF THE SUBJECT REALTY.

It is contemplated that the Subject Realty, consisting of approximately 1.711 acres will be developed by OWNER. Regardless of whether OWNER, or another third party acquires or develops any specific portion of the Subject Realty, the development of the

Subject Realty shall be carried out in general conformity with the development standards hereinafter set forth in this Ordinance and the Commercial Plans, as hereafter defined.

A. APPROVED PLANS.

The following plans for the Subject Realty have been reviewed by the East Dundee Planning and Zoning Commission of the VILLAGE and after final review for conformity with Village ordinances by the Village Engineer and Attorney are hereby approved by the VILLAGE:

Final Engineering Plans (Exhibit "B"), including the following sheets:

1. Sheet T-1: Title Sheet; last revision date _____.
2. Sheet C-1: Site Demolition Plan; last revision date _____.
3. Sheet C-2: Site Geometric Plan; last revision date _____.
4. Sheet C-3: Site Development Plan; last revision date _____.
5. Sheet C-5: Site Utility Plan; last revision date _____.
6. Sheet C-6: Site Detail Sheet; last revision date _____.
7. Sheet C-7: Site Detail Sheet; last revision date _____.
8. Sheet C-8: Site Detail Sheet; last revision date _____.
9. Sheet C-9: Site Specifications Sheet; last revision date _____.
10. Sheet CIR-1: Site Circulation Plan; last revision date _____.
11. Sheet PH-1: Site Photometric Plan; last revision date _____.
12. Sheet SI-1: Site Signage Plans; last revision date _____.
13. Sheet SI-2: Site Signage Detail Sheet #1; last revision date _____.
14. Sheet SI-2: Site Signage Detail Sheet #2; last revision date _____.
15. Sheet LS-1: Landscape Plan; last revision date _____.
16. Sheet S-1: Plat of Survey; last revision date _____.

The Final Engineering Plans are approved by the VILLAGE in their entirety.

B. ZONING AND LAND USE.

Except as otherwise provided in this Special Use Ordinance, the development and use of the Subject Realty shall comply with the standards established under the "B-4 Automotive Service District" zoning classification as set forth in the East Dundee Code of Ordinance, as amended. If there is any conflict between the regulations of the East Dundee Code of Ordinance, as amended from time to time, and this Conditional Use Ordinance, this Conditional Use Ordinance shall govern. In conjunction therewith, the VILLAGE hereby approves the following standards to be applied to the Subject Realty under said zoning classification:

1. Uses. Those Special Uses listed below shall are hereby approved for the Subject Realty.

- (a) Gas station
- (b) Gas sales
- (c) Convenience store
- (d) Car wash

2. Enactment of Zoning Ordinance with Special Use for Planned Unit Development.

Notwithstanding any contrary provision of this Ordinance or the East Dundee Code of Ordinances and not limiting those variations which may be necessary for the construction of the improvements set forth in the Final Engineering Plans, the following conditions, variations, and/or exceptions are hereby approved:

- (i) the number of free standing signs from one per lot to three free standing signs;
- (ii) an encroachment of 13.5 feet for the sign or the southwest corner and 12 foot encroachment for the sign located at the intersection of Rock Road and Route 72, intersection from the required 15foot setback;
- (iii) allow two freestanding fuel price signs with the following dimensions: a total height of 15 feet including a sign face 12 feet high and 12 feet wide for a total sign face area of 144 square feet mounted on a three foot decorative base;
- (iv) a variation which limits the number of wall signs on a corner lot to two to allow for 11 including all canopy signs;
- (v) additional 38 square feet over the allowable 200 square feet for the wall or canopy signage;
- (vi) 22 foot encroachment onto the 50 foot front yard building setback to construct the canopy and a 25 foot variance to the landscape setback;
- (vii) 15 foot encroachment onto the 50 foot corner yard setback to construct the Convenience Store;
- (viii) 50 foot variance to the 50 foot corner yard setback to allow construction of a car wash entry canopy;

- (ix) 5 foot encroachment onto the required 40 foot rear yard building setback; and
- (x) 25 foot encroachment onto the 30 foot front yard parking setback to allow parking in the rear yard.

C. CONSTRUCTION OF BUILDINGS AND APPURTENANCES WITHIN THE SUBJECT REALTY.

The OWNER and/or its successors and assigns, shall have the right to construct buildings, parking lots, driveways, utility lines, and other appropriate improvements within the Subject Realty, provided that same comply with the VILLAGE Code of Ordinance, or as otherwise provided in this Ordinance or the Annexation Agreement. The party seeking to construct such improvements upon any portion of the Subject Realty shall first obtain a building permit, and such other required permits therefore, from the VILLAGE in compliance with the applicable provisions of the VILLAGE Code of Ordinance, as hereby amended. Any building or buildings constructed on any portion of the Subject Realty may be constructed in phases and a portion of the building may be occupied if it meets all applicable ordinances for occupancy, including separation for fire purposes.

D. LANDSCAPING.

The Subject Realty shall be landscaped in substantial compliance with the Final Engineering Plans.

SECTION 3: VARIANCES.

To the extent that any element of the Final Engineering Plans approved pursuant to Section 2B above or otherwise under this Ordinance, deviate from the standards of the Subdivision Regulations, Zoning Ordinance, or other ordinance of the VILLAGE, of the East Dundee Code of Ordinance, or any amendments thereto, or any other VILLAGE ordinances, appropriate variations to the applicable ordinance shall be deemed to be granted hereby.

SECTION 4. PUBLIC IMPROVEMENTS - OBLIGATION TO MAINTAIN.

The Owner of the Subject Realty shall be obligated to reconstruct, repair, and provide ongoing maintenance of the storm water collection system facilities, including pipes, inlets, outlets, and structures connected thereto within its Lot.

SECTION 5: BUILDING CODE.

Except as otherwise provided in Section 10 herein, OWNER shall comply in all respects with the applicable provisions of the East Dundee Code of Ordinance and other VILLAGE ordinances pertaining to the construction of structures for human occupation in effect at the time the responsible OWNER, or its successors or assigns, makes application to the VILLAGE for a building permit or permits in connection therewith.

SECTION 6: APPLICABLE ORDINANCES.

Except as otherwise provided in this Ordinance, including but not limited to Section 3, OWNER shall comply in all respects with the applicable provisions of the East Dundee Code of Ordinance, as amended from time to time, and other VILLAGE ordinances pertaining to the development and use of the Subject Realty in effect at the time OWNER makes application to the VILLAGE for a building permit or permits in connection with the construction of buildings or structures on the Subject Realty, whether or not any of such ordinances are amended after the date hereof. In addition, the B-4 Automotive Service District zoning designation of the Subject Realty and this Ordinance shall survive the expiration of the Annexation Agreement governing the Subject Realty. There shall be no time limit to commence or complete construction on the Subject Realty from the effective date of this Ordinance, except as provided herein.

SECTION 7: BUILDING PERMITS.

No building permit shall be issued for construction of any structure on the Subject Realty until all approvals under Section 2 of this Ordinance are secured.

SECTION 8: OCCUPANCY PERMITS.

- A. No occupancy permit shall be issued for any building, except construction office facilities, on the Subject Realty until the storm water facilities, water system, sanitary sewer system, landscaping and streets through binder course are operational or installed and a certificate of completion has been issued therefore. In the event weather conditions do not permit landscaping to be completed, the VILLAGE shall accept a letter of credit in the amount of the estimated cost of such landscaping in lieu of the completion thereof, and upon the posting of such security the VILLAGE shall issue such occupancy permit.
- B. The VILLAGE shall not deny a temporary certificate of occupancy for any space within a building for the sole reason that other areas in the building are either incomplete or under construction.

SECTION 9: SOIL EROSION.

The responsible OWNER shall adhere to measures for the prevention of soil erosion during the various phases of construction of the development pursuant to the ordinances and any other applicable rules and regulations of the VILLAGE and the Kane County Storm Water Ordinance as adopted and modified by the VILLAGE. The erosion control plan attached to the Preliminary Engineering has been reviewed and approved by the VILLAGE Engineer.

SECTION 10: COMPLIANCE WITH LAWS AND REGULATIONS.

In the event that any one or more provisions of this Ordinance do not comply with any one or more provisions of the Illinois Compiled Statutes and the governing rules of the Water Pollution Control Board or the Federal or State Environmental Protection Agencies, then the VILLAGE and OWNER, and all of their respective successors and assigns, agree to cooperate to comply with said provisions which shall include, but not be limited to, the passage of resolutions and ordinances to accomplish such compliance.

SECTION 11: IEPA PERMITS:

Upon approval of final engineering by the VILLAGE Engineer, but prior to issuance of a construction permit by the Illinois Environmental Protection Agency, OWNER may commence construction of underground Public Improvements for such phase of development provided no such underground Public Improvements shall be connected to active utility lines or mains until all appropriate permits, including NPDES permits if required, have been duly issued by the Illinois Environmental Protection Agency for such phase of development.

SECTION 12: CONFLICT IN REGULATIONS AND ORDINANCES.

The provisions of this Ordinance shall supersede the provisions of any ordinance, code, or regulation of the VILLAGE, which may be in conflict with the provisions of this Ordinance.

SECTION 13: BINDING EFFECT, SUCCESSION IN INTEREST.

This Ordinance shall constitute a covenant running with the land and be binding upon and inure to the benefit of the parties hereto, their successors in interest, assignees and lessees, and upon any successor municipal authorities of the VILLAGE and successor municipalities. Except as otherwise expressly provided herein, upon the conveyance or assignment by OWNER of its interest in the Subject Realty to any successor, assign, or nominee, OWNER, as the case may be, shall be released from any and all further liability or responsibility under this Ordinance, and the VILLAGE shall thereafter look only to the successor, assign, or nominee of OWNER, concerning the performance of such duties and obligations of OWNER hereby undertaken.

SECTION 14: INCORPORATION OF EXHIBITS.

All exhibits attached to this Ordinance are hereby incorporated herein and made a part of the substance hereof.

SECTION 15. 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 provisions shall not affect any of the remaining provisions of this ordinance.

SECTION 16. REPEAL. All ordinances, resolutions, motions, or parts thereof in conflict herewith shall be and the same are hereby repealed.

SECTION 17. 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 17th day of October, 2005, pursuant to a roll call vote as follows:

AYES: Ruffulo, VanOstenbridge, O'Leary, Gorman
NAYES: None
ABSENT: Carlini

Approved by me this 17th day of October, 2005.

Jerry Bartels
JERRY BARTELS, President

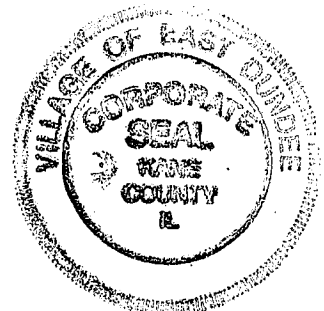
Published in pamphlet form this 7th day of November, 2005, under the authority of the President and Board of Trustees.

ATTEST:

Nikki Giles
NIKKI GILES, Village Clerk

Recorded in the Village Records on November 7th, 2005.

SCHEDULE OF EXHIBITS



A LEGAL DESCRIPTION OF SUBJECT REALTY
B FINAL ENGINEERING PLANS

EXHIBIT "A"
ANNEXATION PARCEL LEGAL DESCRIPTION

Lot 1 of Rock Road CITGO Plat of Resubdivision, being a subdivision of part of the North half of Section 25, Township 42 North, Range 8 East of the Third Principal Meridian, according to the Plat thereof recorded May 22, 1984, as Document No. 1680608, in the Village of East Dundee, in Kane County, Illinois.

EXHIBIT "B"
FINAL ENGINEERING PLANS