

Item #2:

Ordinance Approving Minor Amendment To Sunset Grove Subdivision

VILLAGE OF LONG GROVE

ORDINANCE NO. 2012-O-__

**AN ORDINANCE APPROVING A MINOR AMENDMENT
TO THE THE SUNSET GROVE PLANNED UNIT DEVELOPMENT
REGARDING THE SUNSET GROVE FIRST RESUBDIVISION**

WHEREAS, pursuant to Ordinance No. 2008-O-27, and as amended by Ordinance No. 2010-O-32, ("**PUD Ordinances**"), the Village of Long Grove granted planned unit development approval for the Sunset Grove Planned Unit Development ("**Planned Unit Development**"); and

WHEREAS, the PUD Ordinances granted approval for a commercial development on certain real property generally located at the southeast corner of Illinois Route 83 and Aptakisic Road in the Village of Long Grove, County of Lake, and State of Illinois and legally described in Exhibit A to this Ordinance ("**Subject Property**"); and

WHEREAS, Sunset Grove, LLC ("**Owner**") is the current owner of the Subject Property, and the Owner has requested approval of a minor amendment to Lot 1 of the plat of subdivision of the Planned Unit Development ("**Requested Approval**") as identified on the Final Plat of Sunset Grove First Resubdivision dated April 24, 2012 and as attached hereto as Exhibit B ("**Plat**"); and

WHEREAS, Section 5-11-18(1)(2) of the Long Grove Zoning Code authorizes the Village Board to approve minor changes in an approved planned unit development; and

WHEREAS, the Village's Plan Commission/Zoning Board of Appeals considered and recommended the approval of the Plat on May 1, 2012; and

WHEREAS, the President and Board of Trustees find that, subject to the terms and conditions of this Ordinance as hereinafter set forth, authorization of the Requested Approval and approval of the Plat is a minor change to the Planned Unit Development; and

WHEREAS, the President and Board of Trustees have determined that it is in the best interests of the Village and its residents to amend the Planned Unit Development to incorporate

the Requested Approval and approve the Plat, subject to the terms and conditions of this Ordinance as hereinafter set forth;

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LONG GROVE, COUNTY OF LAKE, STATE OF ILLINOIS,
as follows:

SECTION ONE: Recitals. The foregoing recitals are hereby incorporated into and made a part of this Ordinance as if fully set forth.

SECTION TWO: Minor Amendment to the Planned Unit Development; Plat Approval. Pursuant to 5-11-18(l)(2) of the Long Grove Zoning Code, and subject to the conditions set forth in Section Three of this Ordinance, the Planned Unit Development shall be, and is hereby, amended to incorporate the Requested Approval, and the Plat is hereby approved.

SECTION THREE: Conditions on Approval. The amendment of the Planned Unit Development granted pursuant to Section Two of this Ordinance, incorporating the Requested Approval and approving the Plat shall be, and it is hereby, conditioned upon and limited by the following conditions, the violation of any of which shall, in the reasonable discretion of the President and Board of Trustees, be grounds for the repeal and revocation of the approvals granted herein:

- a. **Continued Effect of the Planned Unit Development.** Except as expressly modified by this Ordinance, the PUD Ordinance shall remain in full force and effect, and the Owner shall comply with all requirements, conditions, and restrictions therein. To the extent any terms of this Ordinance conflict with the terms of the PUD Ordinance, the terms of this Ordinance shall control.
- b. **Compliance with Laws.** Except as otherwise provided in this ordinance, the Zoning Code, the Subdivision Code, the Building Code, and all other applicable ordinances and regulations of the Village shall continue to apply to the Subject Property. In addition, the development and use of the Subject Property shall be in compliance with all laws and regulations of all other federal, state, and local governments and agencies having jurisdiction.

- c. Plat Signature and Recordation. The Village will not sign off on, or authorize the recording of, the Plat until it has been determined that the Owner has complied fully with the PUD Ordinances.
- d. Adjustments to Plat Terms. As a condition of the granting of the Requested Approval and the approval of the Plat, the Owner shall add a general note on the Plat as set forth in Exhibit C to this Ordinance.
- e. Fees and Costs. The Owner shall be responsible for paying all applicable fees relating to the granting of the approvals set forth herein in accordance with the Long Grove Zoning Code. In addition, the Owner shall reimburse the Village for all of its costs (including without limitation engineering, planning, and legal expenses) incurred in connection with the review, consideration, approval, implementation, or enforcement of this Ordinance. Any amount not paid within 30 days after delivery of a demand in writing for such payment shall, along with interest and the costs of collection, become a lien upon the Subject Property, and the Village shall have the right to foreclose such lien in the name of the Village as in the case of foreclosure of liens against real estate. The amounts due from Owner under this Section 3(e) shall be deemed part of the "Deferred Amounts" under the Redevelopment Agreement, as amended, between the Village and the Owner.
- f. Transferees. The rights and obligations set forth in this Ordinance shall be binding on the Owner and upon any and all of the Owner's heirs, successors, and assigns, and upon any and all successor legal or beneficial owners of all or any portion of the Subject Property. To the extent that a successor becomes bound to the obligation created herein pursuant to a transferee assumption agreement acceptable to the Village, and such successor demonstrates to the Village that it has the financial viability to meet the obligations herein, the Owner shall be released from their obligations under this Ordinance to the extent of the transferee's assumption of such liability. The failure of the Owner to provide the Village with an enforceable transferee assumption agreement as herein provided shall result in the Owner remaining fully liable for all of their obligations under this Ordinance but shall not relieve the transferee of its liability for all such obligations as a successor to Owner.

In addition, any violation of this Ordinance shall be deemed a violation of the Long Grove Zoning Code and shall subject the Owner to enforcement proceedings accordingly.

SECTION FOUR: Effective Date. This Ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form in the manner provided by law; provided, however, that this Ordinance shall be of no force or effect unless and until the Owner has (i) caused duly authorized persons to execute and (ii) thereafter file with the Village

their unconditional agreement and consent, in the form attached hereto as Exhibit D and by this reference incorporated herein and made a part hereof; provided further that, if the Owner does not so file its unconditional agreement and consent within 30 days following the passage of this Ordinance, the Village Board may, in its discretion and without public notice or hearing, repeal this Ordinance and thereby revoke the minor amendment granted in this Ordinance. Upon this Ordinance having full force and effect, the Village Clerk shall cause it to be recorded in the Office of the Lake County, Illinois Recorder of Deeds.

PASSED this 8th day of May, 2012.

AYES: ()

NAYS: ()

ABSENT: ()

APPROVED this 8th day of May, 2012.

Village President, Maria Rodriguez

ATTEST:

Village Clerk, Karen Schultheis

#11194001_v2

EXHIBIT A

Legal Description of Subject Property

Lots 1-6 and Outlots A and B of the Sunset Grove Subdivision, being a subdivision of part of the East half of the NE 1/4 of Section 30, Township 43 North, Range 11, east of the Third Principal Meridian, in Lake County, Illinois according to the Plat thereof recorded in the Office of the Lake County Recorder on September 23, 2010 as Document 6648694.

PINs: 15-30-203-011
15-30-203-012
15-30-203-013
15-30-203-014
15-30-203-015
15-30-203-016
15-30-203-017
15-30-203-018
15-30-203-019

EXHIBIT B

Plat

EXHIBIT C

Modified Language for Plat

The Plat shall be modified by adding a general note with substantially the following terms: *"General Note: Nothing in this plat shall modify, alter, or amend the terms of the Sunset Grove Subdivision, except with respect to Lots 1A and 1B as depicted on this Final Plat of Sunset Grove First Resubdivision."* The manner for effecting such modifications shall be subject to the reasonable review and approval of the Village Attorney.

EXHIBIT D

Unconditional Agreement and Consent

Pursuant to Section Four of Long Grove Ordinance No. 2012-O-__ and to induce the Village of Long Grove to grant the approvals provided for in such Ordinance, the undersigneds acknowledge for themselves and their successors and assigns in title to the Subject Property that they

1. have read and understand all of the terms and provisions of said Ordinance No. 2012-O-__;
2. hereby unconditionally agree to accept, consent to, and abide by all of the terms, conditions, restrictions, and provisions of this Ordinance, Ordinance No. 2010-O-31, and Ordinance No. 2008-O-27, and any amendments thereto, the Long Grove Zoning Code, and all other applicable codes, ordinances, rules, and regulations;
3. acknowledge and agree that the Village is not and shall not be, in any way, liable for any damages or injuries that may be sustained as a result of the Village's issuance of any permits for the use of the Subject Property, and that the Village's issuance of any permit does not, and shall not, in any way, be deemed to insure the Owner against damage or injury of any kind and at any time;
4. acknowledge that the public notices and hearings have been properly given and held with respect to the adoption of the Ordinance, has considered the possibility of the revocation provided for in the Ordinance, and agrees not to challenge any revocation on the grounds of any procedural infirmity or any denial of any procedural right;
5. agree to and does hereby hold harmless and indemnify the Village, the Village's corporate authorities, and all Village elected and appointed officials, officers, employees, agents, representatives, and attorneys, from any and all claims that may, at any time, be asserted against any of these parties in connection with the Village's adoption of the Ordinance granting the approvals to the Owner pursuant to the Ordinance; and
6. represent and acknowledge that the persons signing this Unconditional Agreement and Consent are duly authorized to do so on behalf of the Owner of the Subject Property.

SUNSET GROVE, LLC

By: _____

Its: _____