

Item #3:
Ordinance Approving Minor Amendment(s) To Waud PUD

VILLAGE OF LONG GROVE

ORDINANCE NO. 2013-O-__

**AN ORDINANCE GRANTING A MINOR AMENDMENT TO ORDINANCE 2009-O-03
AMENDING AND RESTATING THE PLANNED UNIT DEVELOPMENT
FOR THE WAUD FARM PHASE DEVELOPMENT**

Adopted by the
President and Board of Trustees
of
the Village of Long Grove
this __ day of _____, 2013

Published in pamphlet form by direction
and authority of the Village of Long Grove,
Lake County, Illinois
this __ day of _____, 2013

VILLAGE OF LONG GROVE

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AN ORDINANCE GRANTING A MINOR AMENDMENT TO ORDINANCE 2009-O-03
AMENDING AND RESTATING THE PLANNED UNIT DEVELOPMENT
FOR THE WAUD FARM PHASE DEVELOPMENT

WHEREAS, pursuant to Resolution No. 76-R-6 and Ordinance No. 78-O-25, the Village of Long Grove granted preliminary and final planned unit development approval, respectively, for the Waud Farm Phase I Planned Unit Development ("**Original PUD Approvals**"); and

WHEREAS, the Original PUD Approvals granted approval for an office use on the property zoned in the R-2 PUD District and legally described in Exhibit A attached to this Ordinance ("**Property**"); and

WHEREAS, the Original PUD Approvals granted a special use permit to the Owner to construct an office building and parking facilities as depicted on the planned unit development plat, Phase I, approved pursuant to Ordinance No. 78-O-25 (the "**Original PUD Plans**"); and

WHEREAS, pursuant to Ordinance No. 91-O-6, the Village approved an amendment to the Original PUD Approvals to permit additional parking on the Property, and pursuant to Ordinance No. 93-O-7, the Village approved a second amendment to the Original PUD Approvals to authorize use of the Property for administrative offices and an educational center for developmentally disabled persons (the Original PUD Approvals, as amended by Ordinance No. 91-O-6 and Ordinance No. 93-O-7, shall be collectively referred to as the "**Waud Farm Phase I PUD**"); and

WHEREAS, in March 2008, the right-of-way depicted as "Wildlife Way" on the planned unit development plat, Phase I, approved pursuant to Ordinance No. 78-O-25 ("**Vacated Wildlife Way**"), was vacated pursuant to Ordinance 2008-O-10; and

WHEREAS, MAT Holdings, Inc., the tenant at the Property ("**Applicant**"), with the consent of the owner of the Property, applied for an amendment to the Waud Farm Phase I

PUD to: (i) reflect the Vacation of Wildlife Way, (ii) expand the parking lot that currently exists on the Property, (iii) authorize the installation of signage on the Property, (iv) amend the Original PUD Approvals to reduce to 40 feet the 75-foot setback adjacent to the Vacated Wildlife Way established pursuant to the Original PUD Approvals, and (v) amend and restate the final plat of subdivision to depict a 40-foot setback from the center line of Vacated Wildlife Way (collectively, the "**Proposed Amendments**"); and

WHEREAS, the Proposed Amendments were recommended by the Long Grove Zoning Board of Appeals / Plan Commission (the "**PCZBA**") and approved by the Village Board in Ordinance 2009-O-13 (the "**2009 Amending Ordinance**"); and

WHEREAS, during the public hearing on the Proposed Amendments, representatives of the Applicant presented oral and written testimony, including without limitation the following plat, study, and plans in support of the Proposed Amendments:

1. PUD Study for Midwest Air Technologies, Inc. prepared by Timothy Morgan Associates dated October 10, 2008, consisting of one sheet;
2. Preliminary Engineering and Site Plan for Parking Lot Expansion prepared by Pearson, Brown Associates, dated November 25, 2008, consisting of one sheet;
and
3. MAT Holdings Inc. Sign Amendment Exhibit dated November 19, 2008, consisting of one sheet;

all attached hereto as Exhibit B (collectively, the "**2008 Plans**"); and

WHEREAS, the documents relating to Vacated Wildlife Way were not accepted by the Lake County Recorder for recording and therefore the terms relating to the Vacated Wildlife Way were modified by the Village at the request of Applicant per Ordinance No. 2013-O-__ (the "**Vacation Modification**"); and

WHEREAS, a final plat was not recorded as required by the 2009 Amending Ordinance because Vacated Wildlife Way was not accepted for recording by the Lake County Recorder; and

WHEREAS, the Applicant has requested that the 2009 Amending Ordinance be further amended to reflect the Vacation Modification; and

WHEREAS, the President and Board of Trustees, having considered the recommendations of the Plan Commission regarding the 2008 Plans, the terms of the 2009 Amending Ordinance, and the Vacation Modification, and otherwise being fully advised in the premises, have determined that it is in the best interests of the Village and its residents to grant a minor amendment to the 2009 Amending Ordinance to reflect the Vacation Modification as hereinafter set forth and subject to the terms of this Ordinance;

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 and Restatement of the 2009 Amending Ordinance with Minor Amendment.

(a) The foregoing recitals are hereby incorporated into and made a part of this Ordinance as if fully set forth.

(b) Ordinance No. 2009-O-13 is hereby restated and amended per 5-11-18 (l)2 of the Village Code and such minor amendments are shown in the blackline of Sections Two through Six of Ordinance No. 2009-O-13 as hereafter set forth. This ordinance supersedes Ordinance No. 2009-O-13 to the extent of the blacklining.

SECTION TWO: Amendment and Restatement of the Planned Unit Development.

Pursuant to Sections 5-11-17 and 5-11-18 of the Long Grove Zoning Code, and subject to the limitations therein and the conditions set forth in Section Four of this Ordinance, the Waud Farm Phase I PUD shall be, and is hereby, amended and restated in its entirety so that the Waud

Farm Phase I PUD shall hereafter consist solely of the terms and provisions set forth in this Ordinance.

SECTION THREE: Approval of the 2008 Plans. Pursuant to Sections 5-11-17 and 5-11-18 of the Zoning Code, and subject to the limitations therein and the conditions set forth in Section Four of this Ordinance, the 2008 Plans shall be, and are hereby, approved to permit the Proposed Improvements on the Property. In connection with the approval of the 2008 Plans, the Village Board hereby adopts the findings and recommendations of the Plan Commission and grants relief from the generally applicable regulations of the Village Code as necessary to permit the Proposed Improvements on the Property in accordance with the 2008 Plans.

SECTION FOUR: Conditions on Approval. The approvals granted pursuant to Sections Two and Three of this Ordinance, shall be, and they are 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. **Compliance with Plans.** The development, maintenance, and use of the Property shall be in strict conformance with the 2008 Plans. All improvements to the Property described and depicted in the 2008 Plans, including the final design of the bioswale, shall be subject to the review and approval of the Village Engineer. Prior to the recordation of the Amended and Restated Plat as defined in Subsection 4.G, the Applicant shall provide security for all required improvements described and depicted in the 2008 Plans in an amount and form satisfactory to the Village, and in accordance with the applicable provisions of the Village Code, including without limitation Section 6-5-6 of the Code. **To the extent the Applicant desires to implement a site plan that does not conform to the 2008 Plans, it must (a) submit to the Village a revision to the 2008 Plans ("Modified Site Plan") for review and approval by Village Staff that (i) complies with the standards herein, (ii) generally conforms with the 2008 Plans, (iii) has no fewer than 169 parking spaces as minimally required under the Zoning Code, (iv) is fully compliant with setbacks and parking lot design standards under the Village Code; and (b) implement of the Modified Site Plan by December 31, 2014.**
- B. **Signage.** Signage on the Property is limited to one ground sign not to exceed 50 square feet in area, and must be located at least 250 feet from Gilmer Road, in the approximate location of currently existing signage. Any application for a sign permit for installation of new signage on the Property is subject to review and approval by the Architectural Commission. Construction of signage on the

Property shall be in strict conformance with plans, if any, approved by the Architectural Commission. Temporary signage in conformance with the standards of this Subsection 4.B may be permitted for a period of time not to exceed 180 days.

C. Authorized Use. The following uses are authorized at the Property:

1. Administrative office, and
2. Educational center for developmentally disabled persons.

D. General Conditions Governing the Property. The following conditions shall at all times apply to development and use of the Property:

1. Parking facilities and the office building may occupy no more than three (3) acres of the total acreage of the Property.
2. The setback requirements are as follows:
 - a. 100 feet on the western portion of the property;
 - b. 40 feet on the eastern portion of the property; and
 - c. 350 feet from Gilmer Road.
3. No building on the Property may exceed one story or a height of 15 feet above grade, whichever is lower.
4. A maximum of 5 flagpoles, each with a height of no more than 25 feet, may be installed on the Property.
5. No building or parking area on the Property may have direct access to Gilmer Road.
6. Parking spaces may be located in the 40 foot setback adjacent to the Vacated Wildlife Way only in accordance with the 2008 Plans.
7. In the event that the Property is ever used for an educational center for developmentally disabled persons, the following additional conditions shall apply:
 - a. The operating hours for administrative staff shall be 8:00 a.m. – 6:00 p.m. Monday through Saturday. Operating hours for student programs shall be 8:00 a.m. – 4:00 p.m. Monday through Friday.
 - b. Fund raising events, if any, must be held during administrative staff hours and shall be limited to seminars.
 - c. Authorization to hold special events may be requested by the Tenant and are subject to prior approval by the Village Board.

- d. The maximum occupancy of the building shall not exceed the legal capacity of the building, and shall in no event exceed 200 persons.
 - e. All students must be bused to the site in groups of no less than 10 students, except for wheelchair-bound students, who may be transported in a manner that reasonably accommodates such situations.
 - f. There shall be no retail sales or other commercial operations on the Property.
 - g. Security lighting may be permitted in accordance with applicable provisions of the Village Code, provided, however, that all lighting must be turned off by 8:00 p.m. each evening and may not illuminate neighboring properties.
 - h. No external speaker system may be installed or operated on the Property.
 - i. Any tenant operating an educational center for developmentally disabled persons on the Property must maintain all licenses required by law.
- E. Compliance with Laws. Except as expressly approved 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 Property, and the development and use of the Property shall be in compliance with all laws and regulations of all other federal, state, and local governments and agencies having jurisdiction over the Property.
- F. Other Governmental Approvals. The 2008 Plans shall not be recorded, and no work shall commence in furtherance of the 2008 Plans, unless and until the Applicant has applied for and obtained all required permits and approvals from all other federal, state, and local governments and agencies having jurisdiction over the improvements contemplated therein. To the extent such approvals are subject to conditions that affect the approved engineering and site plans, the 2008 Plans shall not be recorded unless and until the Village Engineer approves any necessary revisions to the approved engineering and site plans and confirms that such revisions do not materially change other elements of the 2008 Plans.
- G. Amended and Restated Plat Approvals. The Applicant must submit an amended and restated plat of subdivision for the Property consistent with the site plan presented to the Plan Commission ("**Amended and Restated Plat**"). The Amended and Restated Plat must include (i) a scenic corridor easement, (ii) a 25-foot pathway easement with access language acceptable to the Village Attorney located within the scenic corridor on the Property, and (iii) a notation of the vacation of Vacated Wildlife Way. The Village Manager and Village Attorney shall confirm that the Amended and Restated Plat conforms in all manners to the terms of this Ordinance and direct the Applicant to make any final technical changes as required herein. **Should Applicant seek to submit a Modified Site Plan per Subsection A above, the Amended and Restated Plat reflecting**

that Modified Site Plan will not be recorded unless the parking plan has been implemented or security is in place (consistent with an approved engineer's estimate of probable cost) to ensure full implementation of the Modified Site Plan. Upon satisfactorily completing such changes, the Applicant shall secure all required signatures upon the Amended and Restated Plat before presenting the Amended and Restated Plat for signature by Village officials. In addition, before the Village President or Village Clerk shall execute or attest the Amended and Restated Plat, the Applicant shall pay any outstanding invoices for fees and costs as provided in Subsection 4.H of this Ordinance. Following the execution and attestation of the Amended and Restated Plat by the Village President and Village Clerk, the Village shall cause the Amended and Restated Plat to be recorded in the office of the Lake County Recorder. No certificate of occupancy for the 2008 Plans and no sales of the Property as a whole (unless approved pursuant to Subsection 4.I) or any portion thereof shall occur prior to the recording of the Amended and Restated Plat.

- H. **Fees and Costs.** The Applicant 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 Applicant 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, **and to that end, the Applicant shall establish and maintain an escrow account with the Village in the amount of \$5,000 to ensure all obligations under this subsection shall be satisfied.** 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 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.
- I. **Transferees.** The rights and obligations set forth in this Ordinance shall be binding on the Applicant and upon any and all of the Applicant's heirs, successors, and assigns, and upon any and all successor legal or beneficial Applicants of all or any portion of the 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 Applicant shall be released from its obligations under this Ordinance to the extent of the transferee's assumption of such liability. The failure of the Applicant to provide the Village with an enforceable transferee assumption agreement as herein provided shall result in the Applicant remaining fully liable for all of its obligations under this Ordinance but shall not relieve the transferee of its liability for all such obligations as a successor to Applicant.

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

SECTION FIVE: Supersedence. This Ordinance, upon taking full force and effect and the recording of the 2008 Plans and Amended and Restated Plat as provided in Sections 4.F and 4.G, will supersede in their entirety the Waud Farm Phase I PUD approvals.

SECTION SIX: 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 Applicant has (i) caused a duly authorized persons to execute and (ii) thereafter files with the Village its unconditional agreement and consent, in the form attached hereto as Exhibit C and by this reference incorporated herein and made a part hereof; provided further that, if the Applicant 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 special use permits 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 October, 2013.

AYES: ()

NAYS: ()

ABSENT: ()

APPROVED this 8th day of October, 2013.

Village President, Angie Underwood

ATTEST:

Village Clerk, Heidi Locker-Scheer

EXHIBIT A

Legal Description of Property

EXHIBIT B

2008 Plans

EXHIBIT C

Unconditional Agreement and Consent

Pursuant to Section Six of Long Grove Ordinance No. 2013-O-___, and to induce the Village of Long Grove to grant the approvals provided for in such Ordinance, the undersigned acknowledges for the Applicant and the Applicant's successors and assigns in title to the Property that the undersigned

1. has read and understands all of the terms and provisions of said Ordinance No. 2013-O-___;
2. hereby unconditionally agrees to accept, consents to, and abides by all of the terms, conditions, restrictions, and provisions of this Ordinance, the Waud Farm Phase I PUD, the Long Grove Zoning Code, and all other applicable codes, ordinances, rules, and regulations;
3. acknowledges and agrees 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 Property, and that the Village's issuance of any permit does not, and shall not, in any way, be deemed to insure the Applicant against damage or injury of any kind and at any time;
4. acknowledges 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. agrees 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 Applicant pursuant to the Ordinance; and
6. represents and acknowledges that the person signing this Unconditional Agreement and Consent is duly authorized to do so on behalf of the Applicant and the Owner of the Property.

[Signatures continued on following page.]

MAT HOLDINGS, INC.

ATTEST

OWNER OF RECORD: _____

ATTEST
