Item #4:

Ordinance Approving Minor Amendments To Sunset Grove PUD

VILLAGE OF LONG GROVE

ORDINANCE NO. 2010-O-32

AN ORDINANCE APPROVING A MINOR AMENDMENT REGARDING BUILDING B, SIGNAGE, AND LANDSCAPING TO THE SUNSET GROVE FINAL PLANNED UNIT DEVELOPMENT

Adopted by the
President and Board of Trustees
of
the Village of Long Grove
this 26th day of October, 2010

Published in pamphlet form by direction
and authority of the Village of Long Grove,
Lake County, Illinois
this 27th day of October, 2010

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VILLAGE OF LONG GROVE

ORDINANCE NO. 2010-O-32

AN ORDINANCE APPROVING A MINOR AMENDMENT REGARDING BUILDING B, SIGNAGE, AND LANDSCAPING TO THE SUNSET GROVE FINAL PLANNED UNIT DEVELOPMENT

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

WHEREAS, the Final PUD Ordinance 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 (the "***Owner***") is the current owner of the Subject Property, and the Owner has requested approval of a minor amendment to the Planned Unit Development to authorize the Owner:

(a) to develop the modified Building B consisting of two separate structures (one for a stand-alone Chase Bank building and the other for the remainder of the original Building B), as depicted on Exhibit B to this Ordinance (the "***Building B Modifications***"),

(b) to install monument signs in conformity with the revised monument sign plan, as depicted on Exhibit C to this Ordinance (the "***Monument Sign Revisions***"), and

(c) to install additional landscaping along the easterly boundary of the Subject Property in accordance with the landscaping plan attached to this Ordinance as Exhibit D (the "***Supplemental Screening***"),

(collectively, Building B Modifications, the Monument Sign Revisions, and the Supplemental Screening shall hereinafter be referred to as the "***Requested Approvals***"); and

WHEREAS, Section 5-11-18(I)(2) of the Long Grove Zoning Code authorizes the Village Board to approve minor changes in an approved planned unit development; 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 Approvals 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 permit the Owner to undertake the Requested Approvals, 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. Pursuant to 5-11-18(I)(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 allow the Owner to undertake the Requested Approvals.

SECTION THREE: Conditions on Approval. The amendment of the Planned Unit Development granted pursuant to Section Two of this Ordinance, permitting the Owner to undertake the Requested Approvals 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 Final 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 Final 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. Requested Approvals. The Building B Modifications shall be completed in substantial conformity with Exhibit B to this Ordinance. The Monument Sign Revisions shall be completed in substantial conformity with Exhibit C to this Ordinance. The Supplemental Screening shall be completed in substantial conformity with Exhibit D to this Ordinance, and such Supplemental Screening must be implemented no later than the Spring 2011 planting season.

d. Adjustments to Final Plat Easement Terms. As a condition of the granting of the Requested Approvals, the Owner shall cause the easement provisions set forth on the Final Plat for the Subject Property to be amended or modified in the manner set forth in Exhibit E 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 Owners 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 F 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 26th day of October, 2010.

AYES: ( )

NAYS: ( )

ABSENT: ( )

APPROVED this 26th day of October, 2010.

_____
Village President, Maria Rodriguez

ATTEST:

_____
Village Clerk, Karen Schultheis

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EXHIBIT A

Legal Description of Subject Property

PARCEL 1:

THE NORTH 5 ACRES OF THE WEST HALF OF THE EAST HALF OF THE NORTHEAST QUARTER OF SECTION 30, TOWNSHIP 43 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, (EXCEPT THAT PART TAKEN FOR ROAD PURPOSES IN CASE NUMBER 91 ED 44) IN LAKE COUNTY, ILLINOIS.

PIN: 15-30-200-030

PARCEL 2:

THE SOUTH 389.18 FEET OF THE NORTH 718.31 FEET (AS MEASURED ON THE EAST AND WEST LINES THEREOF) OF THE NORTH HALF OF THE WEST HALF OF THE EAST HALF OF THE NORTHEAST QUARTER OF SECTION 30, TOWNSHIP 43 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING EAST OF THE EAST LINE OF ROUTE 83 (EXCEPT THAT PART TAKEN FOR ROAD PURPOSES IN CASE NUMBER 91 ED 43) IN LAKE COUNTY, ILLINOIS.

PIN: 15-30-200-031

PARCEL 3:

THE SOUTH 389.17 FEET OF THE NORTH 1107.48 FEET (AS MEASURED ON THE EAST AND WEST LINES THEREOF) OF THAT PART OF THE NORTH HALF OF THE WEST HALF OF THE EAST HALF OF THE NORTHEAST QUARTER OF SECTION 30, TOWNSHIP 43 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING EAST OF THE EAST LINE OF ROUTE 83 (EXCEPT THAT PART TAKEN FOR ROAD PURPOSES IN CASE NUMBER 91 ED 42) IN LAKE COUNTY, ILLINOIS.

PIN: 15-30-200-032

PARCEL 4:

THE WEST 2 1/2 ACRES OF THE NORTH 5 ACRES OF THE EAST HALF OF THE EAST HALF OF THE NORTHEAST QUARTER OF SECTION 30, TOWNSHIP 43 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN LAKE COUNTY, ILLINOIS.

PIN: 15-30-200-002

EXHIBIT B

Revised Building B Plans

EXHIBIT C

Revised Monument Plans

EXHIBIT D

Supplemental Screening

EXHIBIT E

Modified Easement Language for Final Plat

The "Access Easement Provisions," "Village Access Easement Provisions," and "Cross Access Easement Provisions" (collectively, the "***Easement Provisions***") appearing on page 2 of 4 of the "Sunset Grove Subdivision" plat, recorded as Document 6648694 in the Office of the Lake County Recorder, shall each be modified by adding the following sentence: *"In addition, this Easement may be further governed by the Redevelopment Agreement (as amended from time-to-time) between the Owner and the Village of Long Grove and affecting the Subdivision and the lots therein."* The manner for effecting such modifications shall be subject to the reasonable review and approval of the Village Attorney.

EXHIBIT F

Unconditional Agreement and Consent

Pursuant to Section Four of Long Grove Ordinance No. 2010-O-32 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. 2010-O-32;

2. hereby unconditionally agree to accept, consent to, and abide by all of the terms, conditions, restrictions, and provisions of this Ordinance 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: _____