

Application for Modification to Extend Time Period for Preliminary Plan

This Application for Major Modification to Extend Time Period for Preliminary Plan is made pursuant to section 10.8.3 of the Lake County Unified Development Ordinance in conjunction with petitioner's application for Planned development. The purpose of the modification is to extend the time limits for which approval of the PUD Preliminary Plan will remain effective.

This application is made by RK123, LLC, a Florida limited liability company, as owner of the property described on Exhibit A ("Property"). Owner has applied for a conditional use permit for approval of a PUD Preliminary Plan for the property. The property and plan consist of approximately 109 acres for eventual development as a commercial/office and/or retail center. The PUD Preliminary Plan consists of a defined building area with strict planning requirements when a Final PUD Plan is brought forward in accordance with the conditional use permit development conditions.

The owner believes that once zoning and conditional use issues are resolved, the Property will attract quality development. However, an undertaking of this size takes a substantial commitment by a developer, negotiation for purchase, procurement of the proper tenant mix, and detailed planning of the site, including engineering and architecture in conformance with the PUD Preliminary Plan. The approval of the Final PUD Plan is therefore expected to extend well beyond the 24 month period established in the Unified Development Ordinance (UDO). For these reasons, the owner is, requesting at the outset the following modification from Article 10 section 10.7.5.6 of the UDO.

1. Section 3.7.3.10 of the Unified Development Ordinance states:

Lapse of Approval.

A PUD Preliminary Plan/Plat shall lapse and be of no further effect if a Final Plat or Final PUD Plan has not been approved within 24 months of the date of PUD Preliminary Plan/Plat Approval. A PUD Preliminary Plan/Plat may be extended in accordance with the provisions of Article 10, Section 10.2.3N (This is a typo. The actual reference is 10.7.5.6)

2. Section 10.7.5.6 of the Unified Development Ordinance states:

Lapse of Approval

An approved Preliminary Plat shall lapse and be of no further effect if a Final Plat for the subject subdivision is not approved by the Planning, Building and Zoning Committee within 24 months of the date of Preliminary Plat approval by the Planning, Building and Zoning Committee. If Final Plat approval is not received within this 24-month period, the applicant shall be required to reinitiate the subdivision process at the Pre-application Conference stage. If the applicant does not receive Final Plat approval within the required 24-month period, the applicant may file an extension request with the Planning, Building and Zoning Committee. The request must be received by the Planning, Building and Zoning Committee before the expiration date of the approved Preliminary Plat. The extension request shall state reasons for the delay and the proposed length of the extension requested. In reviewing the time extension request, the Planning, Building and Zoning Committee shall consider the circumstances behind the extension request and the status of current regulations. There shall be no limit on the number of extensions that may be granted (for good cause shown) by the Planning, Building and Zoning Committee, provided that the total cumulative effect of all extensions granted shall not extend the life of a Preliminary Plat by more than 12 months. (See also, Phased Subdivision provisions of Sec. 10.4).

The Planning, Building and Zoning Committee is the duly authorized body to grant such extension under Article 10. The owner requests that the Planning, Building and Zoning Committee approve a major modification to permit PUD Preliminary Plat/Plan approval to remain effective for a period of 5 years from the date of Preliminary Plat approval by the Planning, Building and Zoning Committee. This request is only for an extension of the approval period and not a material modification to the plan.

The following Approval Criteria for a Major Modification to the foregoing provision are set forth in section 10.8.3.3 of the Unified Development Ordinance, as follows:

- a. the granting of the Major Modification shall not be detrimental to the public safety, health or welfare, or injurious to other property or improvements in the neighborhood in which the property is located;

Response: The property is currently farmed, and has been for many years. Continued farming of the property during any period of extension will not be detrimental to the public safety, health or welfare, or injurious to other property.

- b. unique conditions exist with the property to be developed that require the modification, and that these conditions are not self created, and that the applicant had no knowledge of the impact of the regulations on the development or the property at the time of the property's purchase.

Response: The property is unique because it is situated next to a strategic regional arterial roadway which over the years has developed, and is still developing, as a location for major commercial developments. The property is located at a signalized intersection and is the appropriate size for a significant development containing many amenities. There are few if any other properties of this size and geographical position that meet these requirements.

The time needed to achieve a quality outcome is not a condition which the owner has created. It is a function of the time needed to attract a suitable developer and design an appropriate site plan.

The property has remained within the control of the same family for decades. At the time of purchase, the purchaser had no knowledge of the impact of extension requirements for PUD Preliminary Plan approval.

c. the Major Modification is the least deviation from this Ordinance that will mitigate the hardship or practical difficulty that exists on the subject property;

Response: The owner believes that the 24 month time period beyond the possible 36 months is the minimum time period necessary to locate a developer with the appropriate product, and to design the development that will best address the conditional use approvals and the pattern book.

d. absent the requested modification, the applicant will be deprived of the ability to develop the property to the full extent otherwise allowed for in this Ordinance;

Response: The extension is the minimum time frame necessary to attract a developer that will design a development that will complement the area and address the conditions of the conditional use permit. High quality development takes time.

e. the Modification shall not in any manner vary any other provisions of this Ordinance; and

Response: This is correct

f. the standard sought to be modified serves no public or private interest.

Response: Not applicable. The modification is simply needed to accomplish quality development.

Therefore, the owner believes that it has satisfied the conditions for approval of the major modification and requests that the PUD Preliminary Plan approval be allowed to remain in effect, without lapse, for a period of 5 years.

RK123, LLC

BY: 
Robert Dimucci, manager

I, LISA A. DIGIACOMO, a Notary Public, do hereby certify that Robert Dimucci personally known to me is the person who executed the foregoing instrument and appeared before me in person and acknowledged that he signed and delivered the same on behalf of such LLC for the uses and purposes therein set forth.

Given under my hand and Notary Seal this 23RD day of January, 2012.


Notary Public



1/23/2012

Therefore, the owner believes that it has satisfied the conditions for approval of the major modification and requests that the PUD Preliminary Plan approval be allowed to remain in effect, without lapse, for a period of 5 years.

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Notary Public



1/23/2012

Legal Description:

Parcel One:

All that part of the Northeast 1/4 and the North 1/2 of the Southeast 1/4 of Section 6 and a small part of the Southwest 1/4 of Section 5, both in Township 43 North, Range 10 East of the 3rd Principal Meridian which lies Southwesterly of the of the Southwesterly line of the right of way of Old Mc Henry Road, South of the Southerly right of way line of Old Mc Henry Road as relocated as per the Plat of Highway thereof recorded on March 4, 1986 as Document No. 2424076 and lying East of the East right of way line of Rand Road (U.S. Route 12) bounded by a line described as follows:

Commencing at the intersection of the center line of Old Mc Henry Road (SAR 52) as per the Plat of Survey thereof recorded February 13, 1943 as Document No. 524171 with the West line of the Northeast 1/4 of said Section 6; thence South 54 degrees 26 minutes 52 seconds East along the center line of said Old Mc Henry Road, a distance of 1077.35 feet to a point; thence South 35 degrees 33 minutes 00 seconds West, a distance of 40.0 feet to a point on the Southwesterly right of way line of Old Mc Henry Road and the Place of Beginning of that Tract of land to be described:

thence Northwesterly along a curved line, convex to the Northeast, tangent with the Southwesterly line of Old Mc Henry Road, heretofore described with a radius of 1105.42 feet, a central angle of 01 degree 11 minutes 21 seconds, a distance of 22.47 feet, arc measure, to a point;

thence South 34 degrees 21 minutes 43 seconds West along a radial line of the last described curved line, a distance of 10.0 feet to a point;

thence Northwesterly along a curved line, convex to the Northeast, having a radius of 1043.92 feet, concentric with the last described curved line, having a central angle of 23 degrees 00 minutes 00 seconds, a distance of 434.93 feet, arc measure, to a point;

thence South 11 degrees 21 minutes 43 seconds West along a radial line of said curved line a distance of 10.0 feet to a point;

thence Westerly along a curved line, convex to the North, having a radius of 1025.92 feet, concentric with the last described curved line, having a central angle of 11 degrees 55 minutes 04 seconds, a distance of 225.86 feet, arc measure, to a point;

thence South 04 degrees 26 minutes 30 seconds West along a line tangent with the last described curved line, a distance of 140.14 feet to a point;

thence South 04 degrees 55 minutes 10 seconds West, a distance of 136.23 feet to a point in the Easterly line of Millon Road (SAR 6), distant 46.47 feet East from the West line of the Northeast 1/4 of said Section 6;

thence South 01 degree 02 minutes 10 seconds West along the East line of Millon Road (SAR 6), a distance of 242.54 feet to a point on the Easterly line of Rand Road and the Easterly line of the Palatine, Lake Zurich and Naucondo Railroad as shown on the Plat of Dedication thereof recorded August 24, 1851 as Document No. 44029-2, being a curved line, convex Easterly and having a radius of 152.80 feet;

thence Southerly along the Easterly line of said right of way, a distance of 516.41 feet, arc measure, the chord of said curved line bearing South 04 degrees 37 minutes 47 seconds East, a distance of 355.42 feet to a point of tangent;

thence South 00 degrees 14 minutes 07 seconds East along the East line of said Rand Road, a distance of 311.57 feet to a point on the South line of the Northeast 1/4 of said Section 6, 130.0 feet East of the Southwest corner thereof;

thence continuing South 00 degrees 14 minutes 07 seconds East, parallel with the West line of said Northeast 1/4, a distance of 741.16 feet to a point of curve;

thence Southwesterly along a curved line, convex to the West and having a radius of 1366.41 feet, a distance of 426.14 feet, arc measure, to a point of tangent; the chord of said curved line bearing South 04 degrees 04 minutes 07 seconds East, a distance of 426.41 feet, to a point of tangent;

thence continuing South along the East right of way line, South 17 degrees 34 minutes 07 seconds East, a distance of 174.03 feet to a point on the South line of the North 1/2 of the Southeast 1/4 of said Section 6, at a point 153.14 feet East of the intersection of said line with the East line of Rand Road, as per Valantine Manor Subdivision, the Plat of which was recorded November 18, 1851 as Document No. 412506;

thence South 04 degrees 46 minutes 53 seconds East along the South line of the North 1/2 of said Southeast 1/4 being also the North line of Valantine Manor Subdivision, aforesaid, as said line is staked and occupied, a distance of 2391.82 feet to the Southeast corner of the North 1/2 of the Southeast 1/4 of said Section 6;

thence North 00 degree 20 minutes 52 seconds West along the East line of the North 1/2 of the Southeast 1/4 of said Section 6, being also the West line of the Southwest 1/4 of said Section 5 and the West line of Lakewood Estates of Hawthorne Woods - Phase One, the Plat of which was recorded June 3, 1951 as Document No. 2374063, a distance of 343.50 feet to an angle point at a corner of Lot 28 in said subdivision;

thence North 23 degrees 07 minutes 41 seconds East, along the line of said Lot 28 in said subdivision, being the previous location of an old fence line, a distance of 354.04 feet to a point on the Southwesterly line of the right of way of Old Mc Henry Road as per the Plat of Survey thereof, Recorded February 13, 1943 as Document No. 524171, 40.0 feet Southwesterly of the center line thereof;

thence Northwesterly along the Southwesterly line of said right of way, being a curved line, convex to the Southwest, having a radius of 5764.65 feet, a distance of 718.63 feet, arc measure, the chord of said curved line bearing North 44 degrees 47 minutes 21 seconds West a distance of 718.04 feet, to a point of tangent;

thence North 45 degrees 53 minutes 24 seconds West along the Southwesterly line of said Old Mc Henry Road, 40.0 feet Southwesterly of the centerline thereof, a distance of 502.44 feet to a point of curve;

thence continuing Northwesterly along the Southwesterly line of Old Mc Henry Road, being a curved line, convex to the Northwest and having a radius 5724.65 feet, a distance of 843.62 feet, arc measure, the chord of said curved line bearing North 50 degrees 11 minutes 10 seconds West, a distance of 844.84 feet, to a point of tangent;

thence continuing along the Southwesterly line of said right of way, North 54 degrees 26 minutes 52 seconds West, a distance of 416.37 feet to the Place of Beginning, all in Lake County, Illinois.

Area within Parcel One = 4,734,030 sq.ft. or 108.7446 acres.

**Property Addresses and
Property Index Numbers (PIN's)**

<u>Property Location:</u>	<u>PIN Number</u>
25575 N. Old McHenry Road Lake Zurich, Illinois	14-06-200-017
25435 N. US Highway 12 Lake Zurich, Illinois	14-06-400-009 (includes other property)
25275 N. Old McHenry Road Lake Zurich, Illinois	14-06-400-004
26475 N. Old McHenry Road Lake Zurich, Illinois	14-06-400-011
25442 N. Old McHenry Road Lake Zurich, Illinois	14-05-300-008
26479 N. Old McHenry Road, Lake Zurich, Illinois	14-06-400-010

The Addresses and Property Index Numbers on this page are effective as of January, 2012.