
THE VILLAGE OF BLOOMINGDALE

DUPAGE COUNTY, ILLINOIS

ORDINANCE

NUMBER 2022-50

**AN ORDINANCE
AMENDING ORDINANCE NO. 89-07 TO ALLOW AN
INCREASE IN THE PERCENTAGE/SQUARE FOOTAGE
ALLOWANCE FOR RESTAURANT RELATED USES ON
THE PROPERTY COMMONLY KNOWN AS 396-400 W.
ARMY TRAIL ROAD (BLOOMINGDALE SQUARE
SHOPPING CENTER)**

FRANCO A. COLADIPIETRO, Mayor

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JUDI VON HUBEN

Village Board

Published in pamphlet form by authority of the
President and the Board of Trustees of the Village of Bloomingdale
on this the 28th day of November, 2022

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AMENDING ORDINANCE NO. 89-07 TO ALLOW AN INCREASE IN THE
PERCENTAGE/SQUARE FOOTAGE ALLOWANCE FOR RESTAURANT RELATED USES
ON THE PROPERTY COMMONLY KNOWN AS 396-400 W. ARMY TRAIL ROAD
(BLOOMINGDALE SQUARE SHOPPING CENTER)**

WHEREAS, the Village of Bloomingdale (hereinafter referred to as “Village”) is a Home Rule unit of local government with authority granted pursuant to the Illinois Constitution of 1970, to exercise certain powers and perform certain functions pertaining to its local government and affairs;

WHEREAS, the Village is authorized by the Municipal Code, 65 ILCS 5/11-13-5, to vary its zoning regulations where there are practical difficulties or particular hardship in observing those regulations for the use, construction or alteration of buildings or structures of the use of land;

WHEREAS, Bloomingdale Square, LP (the “Petitioner”), the “Owner” of the property commonly known as 396-400 W. Army Trail Road (the “Subject Property”), is proposing to increase the square footage allowances for restaurants allowed in the Bloomingdale Square Shopping Center on the Subject Property;

WHEREAS, on February 27th, 1989, the Village approved Ordinance No. 89-07, which approved the rezoning of the Subject Property from B-1 to B-3, General Business District, as well as a Planned Development for the shopping center;

WHEREAS, Ordinance 89-07 currently requires 85 percent of the center (or 64,026 square feet, including the outbuilding) to be developed for retail and that 15 percent of the center (or 11,299 square feet) to be developed as restaurant(s);

WHEREAS, Petitioner requested to amend Ordinance 89-07 to require 79 percent of the center to be developed for retail and that 21 percent of the center to be developed as restaurant(s) on the Subject Property;

WHEREAS, the Village Planning and Zoning Commission (hereinafter referred to as the "Commission") conducted a public hearing identified as PC Case No. 2022-112 to consider the Petitioner's request and to hear testimony on the proposal;

WHEREAS, as a result of said hearing the Commission issued a recommendation to amend Ordinance 89-07 to instead allow/require 75 percent of the center to be developed for retail and that 25 percent of the center to be developed as restaurant(s) on the Subject Property, all pursuant to proper notice and in compliance with the laws of the State of Illinois and Ordinances of the Village;

WHEREAS, the Commission made positive findings of fact dated November 1, 2022, in support of said Application as, modified, to alleviate the Petitioner's need to come back to the Commission, should Petitioner secure additional restaurant users in the future, and recommended approval of the Petitioners' request by the Board of Trustees of the Village; and

WHEREAS, the Board of Trustees find that the granting of the requested approvals will have no detrimental impact on the health, safety or welfare of the public in general and further finds that the Petitioners have demonstrated practical difficulties or particular hardships in the application of the Zoning Regulations of the Village Code.

NOW, THEREFORE, BE IT ORDAINED, in open meeting assembled, by the Village President and Board of Trustees (collectively the "Corporate Authorities") of the Village of Bloomingdale, DuPage County, Illinois, pursuant to the Village's Home Rule Powers, as follows:

Section One - Recitals

The Corporate Authorities hereby find that all of the recitals hereinbefore stated as contained in the preamble to the Ordinance are full, true and correct and do hereby, by reference, incorporate and make them part of this Ordinance as legislative findings.

Section Two – Adoption of Findings and Recommendations

The Board of Trustees hereby adopts the Findings and Recommendations of the Commission as if fully set forth herein, as EXHIBIT A, which is attached hereto and made a part hereof.

Section Three – Description of Property

The properties subject to the granting of the requested approvals is described in EXHIBIT A, which is attached hereto and made a part hereof.

Section Four – Amend Ordinance 89-07

The Village Board hereby amends Ordinance No. 89-07, which approved the rezoning of the Subject Property from B-1 to B-3, and approved a Planned Development for the shopping center that requires 85 percent (or 64,026 square feet) to be developed for retail and 15 percent (or 11,299 square feet) to be developed as restaurant(s), to now require 75 percent (or 56,494 square feet) to be developed for retail and 25 percent (or 18,831 square feet) to be developed as restaurant(s) at the Shopping Center on the Subject Property.

For purposes of clarification relating to the Planned Development's use requirements, despite any other use approved by Ordinance, the Planned Development shall be developed to consist of no more than 75 percent (or 56,494square feet) of retail related uses, and no more than 25 percent (or 18,831 square feet) to be developed as restaurant(s).

Section Five – Additional Requirements

Approval of the Application granted by this Ordinance is further subject to the following conditions and the Petitioner's compliance therewith:

- (a) Compliance with all plans and testimony presented at the Planning and Zoning Commission meeting of November 1, 2022.
- (b) Other than the relief granted herein, all other restrictions and requirements provided by Ordinance No. 89-07 shall remain in full force and effect.

Section Six – Compliance and Conformity with Plans and Specifications

The relief and approvals granted pursuant to this Ordinance shall be further contingent upon the substantial conformance with any plans, specifications and documents, which were submitted to the Commission and to the Board of Trustees, and which are set forth in the petitioner's exhibits attached herein, as Exhibit B (the "Approved Plans"), which are attached hereto and made a part hereof, and shall govern except where they are inconsistent with the specific terms of this Ordinance.

Section Seven – Conditions to Zoning Relief and Conflict Clause

The Subject Property is subject to all terms and conditions of applicable ordinances and regulations of the Village, including, without limitation, zoning ordinances, building codes, subdivision regulations and regulations concerning the construction and design of antennas and satellite stations; provided, however, the specific terms and conditions of this Ordinance shall prevail against other existing ordinances of the Village to the extent that there may be any conflict. The grant of these special uses and additional approvals are limited to the specific business operation described herein.

Section Eight – Penalty

Any person violating the terms and conditions of this Ordinance shall, following prior notice thereof by the Village to such offending person and such opportunity to correct such violation(s) as the Village may determine appropriate, be subject to a penalty not exceeding \$1,000.00, with each and every day that such violation of this Ordinance is allowed to remain in effect being deemed a complete and separate offense. In addition, the appropriate authorities of the Village may take such other actions they deem proper to enforce the terms and conditions of this Ordinance, including, without limitation, an action in equity to compel compliance with its terms. Any person violating the terms of this Ordinance shall be subject, in addition to the foregoing penalties, to the payment of court costs and reasonable attorneys' fees of the Village.

Section Nine – Effective Date

This Ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law; provided, however, this Ordinance shall not take effect until the Consent (a copy of which is attached hereto and made a part hereof as EXHIBIT C) is executed by the Petitioner and by the owner, thereby memorializing its agreement to be bound by the terms and conditions contained within this Ordinance. Such execution shall take place within forty-five (45) days after the passage and approval of this Ordinance or within such extension of time as may be granted by the Board of Trustees by motion prior to the expiration of said forty-five day (45) period. If the Consent is not executed within forty-five (45) days after passage and approval of this Ordinance or within an extension of time granted during said forty-five (45) day period, this Ordinance shall be void and of no force or effect, and the request for relief identified herein shall be deemed abandoned.

Section Ten – Recording


This Ordinance shall be entered into the minutes and upon the journals of the Board of Trustees.

[Remainder of Page Intentionally Left Blank; Roll Call to Follow]

DECIDED pursuant to a roll call vote as follows:

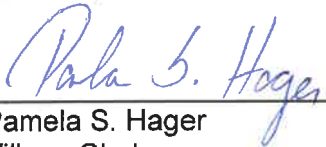
	YES	NO	ABSENT	PRESENT
Vince Ackerman	X			
William Belmonte	X			
Bill Bolen			X	
Frank Bucaro			X	
Patrick Shannon	X			
Judi Von Huben	X			
Franco A. Coladipietro (only if necessary)				
TOTAL	4	0	2	

PASSED AND APPROVED by the Village of Bloomingdale Board of Trustees on the 28th day of November, 2022.



Franco A. Coladipietro
Village President

ATTEST:



Pamela S. Hager
Village Clerk

Exhibit A
Findings of Fact

Exhibit B
Approved Plans