
THE VILLAGE OF BLOOMINGDALE
DUPAGE COUNTY, ILLINOIS

ORDINANCE
NUMBER 2022-55

AN ORDINANCE GRANTING AN EXTENSION TO ORDINANCE NO. 2016-41, WHICH EXTENDED ORDINANCE NO. 2013-02, WHICH GRANTED A SPECIAL USE PERMIT, APPROVAL OF A PLANNED UNIT DEVELOPMENT WITH EXCEPTIONS AND FINAL SITE PLAN FOR THE PROPERTY COMMONLY KNOWN AS 201 E. LAKE STREET, BLOOMINGDALE, ILLINOIS

Franco A. Coladipietro, Mayor

Pamela S. Hager, Village Clerk

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Village Board

Published in pamphlet form by authority of the
President and the Board of Trustees of the Village of Bloomingdale
on this the 12th day of December, 2022

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WHEREAS, the Village of Bloomingdale, DuPage County, Illinois (hereinafter referred to as the “Village”) is a home rule unit of local government, and as such may exercise any power and perform any function pertaining to its government and affairs, except as limited by Article VII, Section 6 of the 1970 Illinois Constitution;

WHEREAS, the Village is authorized by the Illinois 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 or the use of land;

WHEREAS, David Heidner, is the owner (the “Owner”) of the property commonly referred to as 201 E. Lake Street, Bloomingdale, Illinois (the “Subject Property”);

WHEREAS, in 2012 Owner submitted an application identified as PC Case #2012-109 to request certain relief relating to redeveloping the Subject Property from an automobile service station into a restaurant whereby a public hearing was held before the Village Plan Commission on October 16th, 2012, continued to and closed on November 20th;

WHEREAS, the Plan Commission made several recommendations which included but were not limited to approvals to reduce building setbacks, a special use for a drive thru and signage relief, as well as reductions to the required landscape setbacks for the (east) interior side yard from 10’-0” to 4’-0”, and the (west) corner side yard from 30’-0” to 11’-0”;

WHEREAS, on January 14th, 2013, the Village Board of Trustees approved Ordinance No. 2013-02, An Ordinance Granting a Special Use Permit, Approval of a Planned Unit Development with

Exceptions and Final Site Plan Approval to Allow the Redevelopment of an Automobile Service Station at the property commonly referred to as 201 E. Lake Street, Bloomingdale, Illinois;

WHEREAS, pursuant to Section 11-3-4F(4) of the Village Code of Ordinances, where a special use permit has been granted and a building permit and/or certificate of occupancy has not been obtained by certain dates after the approving ordinances were granted, then, without action any action by the Village the special use permit approval shall automatically be terminated;

WHEREAS, Owner was unable to perform the necessary work on the Subject Property within the time frame required by Village code therefore on October 24th, 2016 the Village Board of Trustees approved Ordinance No. 2016-41 which provided an extension to the special use and related approvals granted by Ordinance No. 2013-02 with minor modifications;

WHEREAS, on April 20th, 2018, permits were issued to Owner for the proposed restaurant, and work on the site commenced.

WHEREAS, due to extenuating circumstances including but not limited to economic instability and complications resulting from the 2020 COVID-19 pandemic the Owner was unable to secure the necessary contracts to finalize the build-out of the Subject Property for the approved special use for a restaurant;

WHEREAS, Owner now has a contract with a potential tenant for the Subject Property and is requesting an extension of Ordinance No. 2016-41, which would include the previously approved minor alterations to the site plan, to allow for the operation of a restaurant, with a drive-thru, rather than the originally approved automobile service station;

WHEREAS, the Village Board of Trustees of the Village of Bloomingdale has acknowledged that extenuating circumstances, including but not limited to negotiations between the Village and the petitioner, resulting in a formal development agreement, and the 2020 global pandemic have caused the

delay of an issuance of the permit beyond the required time frames, finding reason to extend said approvals, with the 2016 modifications, beyond such time period; 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 of the Village of Bloomingdale, DuPage County, Illinois pursuant to its home rule powers as follows:

Section One: Recitals

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

Section Two: Description of Property

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

Section Three: Extension of Ordinance No. 2016-41

The Village Board hereby extends Ordinance No. 2016-41, for a period of 18 months from the date of the approval of this Ordinance, and further subject to the terms and conditions as set forth in Section 11-3-4F(4) of the Village of Bloomingdale's Zoning Ordinance. Such extension shall be considered to include the previously approved exceptions required to operate a restaurant with a drive-thru on the Subject Property as provided in Section Four.

Section Four: Active Exceptions on Subject Property

For the strict purpose of clarifying the active exceptions granted for the Subject Property, the Board of Trustees hereby affirms the following exceptions previously approved by Ordinance No. 2013-02 and Ordinance No. 2016-41 are hereby extended:

- (a) Approval of a Special Use Permit to operate a drive-thru;
- (b) Approval of final site plan
- (c) Exception to allow a landscape/pavement setback of 0'-0" on the east property line, in lieu of the 10'-0" required;
- (d) Exception to allow a landscape/pavement setback of 0'-0" on the west property line, in lieu of the 30'-0" required;
- (e) Any other exceptions relevant to the restaurant use or the site in general, included in ordinance 2013-02, that was not specific to the gas station.

Section Five: Compliance and Conformity with Plans and Specifications

The active relief and approvals extended and affirmed pursuant to Section Three and Four of this Ordinance shall be further contingent upon the substantial conformance with the following plans and documents, which were submitted to the Commission and to the Board of Trustees, and which, are incorporated into and made a part of this Ordinance as Exhibit B, and shall govern except where they are inconsistent with the specific terms of this Ordinance:

Item	Prepared By	Date
Originally Approved Site Plan	Sorce Architecture	9/4/2012, with last revision on 11/20/2012
Proposed Site Plan	American Developers Corporation	9/27/2016
Elevations (A6 and A7)	American Developers Corporation	9/27/2016

Section Six: 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 this special use is limited to the specific business operation described herein.

Section Seven: 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 Eight: 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 Nine: Recording

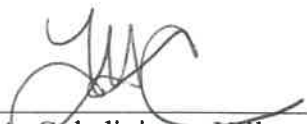
This Ordinance shall be entered into the minutes and upon the journals of the Board of Trustees.

[Remainder of page intentionally left blank; roll call vote 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		2	

PASSED AND APPROVED by the Village of Bloomingdale Board of Trustees on the 12th day of December, 2022.



Franco A. Coladipietro, Village President

ATTEST:



Pamela S. Hager, Village Clerk

Exhibit A

Legal Description of Property

LOT ONE IN GEORGE HYMAN'S DIVISION OF LOT ONE IN SUNCREST HIGHLANDS UNIT NO. FIVE, A SUBDIVISION OF PART OF THE NORTHWEST QUARTER OF SECTION FOURTEEN, TOWNSHIP FORTY NORTH, RANGE TEN, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED MAY 16, 1962 AS DOCUMENT NO. R62-15120, IN DUPAGE COUNTY, ILLINOIS.

Property Index Numbers: 02-14-106-020

Common Address: 201 E. Lake Street, Bloomingdale, DuPage County, Illinois

Exhibit B
Approved Plans

Exhibit C

Consent

The undersigned, David Heidner, as the owner of the Subject Property, described in the foregoing Ordinance 2022-55 (“Ordinance”), having read a copy of the Ordinance, do hereby accept, concur, and agree to develop, use and maintain the Subject Property in accordance with the terms and conditions stated in the Ordinance, to the extent that the Petitioner has use and control over the Subject Property as of the date of the approval of the Ordinance. This consent shall be binding upon all parties in interest and all successors and assigns to the Subject Property.

DATED this ____ day of _____, 2022.

David Heidner

By: _____

Its: _____

SUBSCRIBED AND SWORN to before me
this ____ day of _____, 2022.

Notary Public
(SEAL)