

VILLAGE OF SHOREWOOD HILLS

ORDINANCE NO. L-2000-4

AN ORDINANCE CHANGING THE ZONING OF PROPERTY TO PLANNED UNIT DEVELOPMENT, AND APPROVING A GENERAL DEVELOPMENT PLAN AND A SPECIFIC DEVELOPMENT PLAN FOR THE PROPERTY

RECITALS

1. Flad Development & Investment Corporation, Janet H. Hoopes and Joe and Mary Varese, (the "Applicants") have requested that the zoning classification of the property described in Exhibit A ("the "Property") be changed to Planned Unit Development District ("PUD").
2. The Applicants have submitted a document entitled "KOHL'S SHOPPING CENTER REDEVELOPMENT - KOHL'S FOOD STORE, BORDERS BOOK SHOP, WALGREENS PHARMACY, JANET'S ANTIQUES AND STEVE'S LIQUOR, 3770, 3810 and 3618 UNIVERSITY AVENUE, SHOREWOOD HILLS, WISCONSIN, PLAN COMMISSION P.U.D. SUBMITTAL PACKAGE, AUGUST 24, 2000," a supplemental document entitled "BOARD OF TRUSTEES MEETING, VILLAGE OF SHOREWOOD HILLS, SEPTEMBER 18, 2000," and a supplemental document entitled "PUD Submittal Package, Amendment II, October 3, 2000," (collectively, the "PUD Submittal Package").
3. The PUD Submittal Package contains the Applicants' Planned Unit Development District zoning application, proposed General Development Plan ("GDP") and proposed Specific Development Plan ("SDP").
4. For purposes of this Ordinance, the entirety of the PUD Submittal Package shall be the proposed GDP and SDP.
5. On September 11, 2000, the Village Plan Commission considered the application for rezoning the property to PUD, and recommended that the Village Board approve the proposed GDP and SDP with certain modifications and conditions.
6. On September 18, 2000, the Village Board held a public hearing regarding the application to change the zoning classification of the Property to PUD, which was preceded by the publication of a class 2 notice under ch. 985, Wis. Stats., posting of notice in at least 1 conspicuous place in each block proposed to be rezoned, and mailing of notice to owners or occupants of property situated in the block and within 200 feet from the Property.

7. The Village Board determines that, subject to certain conditions, and based upon the criteria set forth in section 10-1-33(e) of the Village's Zoning Code, zoning the Property Planned Unit Development District and approving the GDP and SDP is consistent with the spirit and intent of the Village's Zoning Code, has the potential for producing significant community benefits in terms of environmental and aesthetic design, promotes the public health, safety and general welfare of the Village, and allows appropriate use of the Property.

NOW THEREFORE, the Village Board of the Village of Shorewood Hills, Dane County, Wisconsin, do ordain as follows:

Section 1. Subject to the conditions set forth below, the zoning classification of the Property is hereby changed to Planned Unit Development District, pursuant to section 10-1-33 of the Village Code and section 62.23(7)(d), Wis. Stats.

Section 2. Subject to the following conditions, the GDP and SDP are hereby approved, pursuant to section 10-1-33(4) of the Village Code:

1. Flad Development & Investment Corp. (the "Developer") shall cooperate with the Village to have Madison Metro route appropriate bus traffic through the redeveloped Site.
2. Prior to the issuance of any building permits or the commencement of any land disturbing or construction activities on the Property:
 - a. The Developer shall obtain approval from the Village Engineer and the Village Board of a final stormwater management plan and construction site erosion control plan for the Property, which plans shall be made a part of the final SDP.
 - b. Covenants and restrictions, in a form acceptable to the Village Attorney, and enforceable by the Village, shall be recorded, and shall provide for the following:
 - i. *Noise limitations.*
 - (1) Noise from significant noise sources, such as air conditioners, air movement equipment, and vehicle back-up signals, shall be effectively buffered using evergreen vegetation, vibration batts or other effective noise elimination measures. Air conditioners, refrigeration equipment, air movement equipment and other

significant noise sources shall be located on ground pads or near the center of the roof-top.

- (2) Except during construction of the improvements on the Property, noise emitted from any source on the Site, excepting public rights-of-way, shall not exceed 50 dBA. Noise measurements may be made at any point on or beyond the following boundaries, at locations where a person might normally be, such as on a porch or on a sidewalk:
 - (a) On or beyond the North boundary of Locust Drive;
 - (b) On or beyond the boundary between the Site and Garden Homes;
 - (c) On or beyond the South Boundary of University Avenue;
 - (d) On or beyond the East side of Highbury Road.

ii. *Outdoor Lighting.*

- (1) In this subsection, “light trespass” shall mean stray light or still light, other than ambient natural light, flowing from light sources on the Site onto adjacent property.
- (2) The maximum allowable light trespass shall be 0.3 horizontal footcandles 4' above the ground. The point of measurement of light shall be at any point greater than 10' from the exterior boundary of the Site. This measurement shall not include any ambient natural light.
- (3) Light sources shall be shielded or installed so that there is not a direct line of sight between the light source or its reflection and a point 5' or higher above the ground of any adjacent property. The light source shall not be of such intensity as to cause discomfort or annoyance.
- (4) Any outdoor lighting fixture installed in any parking area shall use metal halide lamps or a functionally equivalent lighting source approved by the Village. Light sources shall also be of a wavelength (color) that is least offensive, both within and beyond the Site. Upward

illumination is not permitted, excepting Sternberg decorative lamps.

- (5) The lighting for a parking area that is primarily used for any one building shall be extinguished or reduced to 50% no later than 60 minutes after the close of the businesses in that building for the day, or after the end of normal business hours for the majority of employees in that building.
- (6) The maximum illumination on the parking, bicycle and pedestrian areas shall be designed to meet the following standards:
 - (a) Minimum footcandles on pavement – .4 fc (not mandatory within 4' of the pavement edge);
 - (b) Maximum average footcandles on pavement -- 2.5 fc;
 - (c) Maximum uniformity ratio within the parking areas (Avg: Min) - 5:1;
 - (d) Maximum watts/sq. Ft. lighting load – .10 (watts shall mean lamp voltage and ballast consumption);
 - (e) An outdoor lighting system for illuminating building and structures shall have a maximum connected lighting load of 5 watts per linear foot.

iii. *Landscaping.*

- (1) Landscape plans shall include a selection of plants which will provide interest and color during the entire year. Plant material should be hardy and native to this region, with low water requirements using, for example, native grasses rather than blue grass and purple coneflowers rather than petunias. All plant material should be of sufficient size to have immediate visual impact. Canopy trees should be at least 2 ½" caliper when planted.
- (2) Plant material should be well maintained, especially during the year following their installation. Any dead plant shall be replaced during the next planting season.

iv. *Public Areas.*

- (1) Public gathering areas shall be maintained year-round and not used for snow storage or for outside sales or commercial promotions.
- (2) Combined seating for at least 40 people shall be provided in the public gathering places. At least half of the seating places shall be movable chairs. Benches and chairs shall be made from material with low environmental impact, such as recycled plastic.
- (3) A small fountain or other element of moving water shall compliment the gathering places within the site. A low maintenance sculpture, impressive tree or other unusual planting shall mark these public gathering places.
- (4) The public gathering places shall be open to all members of the public, and not limited to customers of any merchant.

v. *Bicycle Friendliness.*

- (1) There shall be 1 bicycle parking space for every 10 car parking spaces for the first 500 car parking spaces, and 1 bicycle parking space for every 20 car parking spaces for all car spaces beyond 500. Up to 40 percent of these bicycle parking spaces may be deferred so long as provision is made for their addition if and when the Village decides they are needed.
- (2) Bicycle parking areas shall be cleared of snow and maintained for year-round use.

vi. *Traffic.* The development shall be designed to minimize traffic on Village streets other than those within the Site, and on that portion of Highbury Road adjacent to the Site.

vii. *Energy efficiency.* Buildings shall be designed and operated to promote energy efficiency, shall maximize the use of natural light, and shall minimize the need for heating and cooling.

viii. *Recycling.* Contractors shall, on the Site, separate for recycling major building materials, including corrugated steel, wood, metals and concrete.

ix. *Hours of operation.*

- (1) Construction activities on the Property shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday, and 7:00 a.m. to 6:00 p.m. Saturday.
- (2) No trash pick-up shall be made anywhere on the Site except during the hours of 7 a.m. to 7:00 p.m. Monday through Friday, 7:00 a.m. to 6:00 p.m. Saturday, and 8:00 a.m. to 12:00 p.m. Sunday.
- (3) No deliveries shall be made to the buildings expected to house Borders or Walgreens except during the hours of 7 a.m. to 7:00 p.m. Monday through Friday, 7:00 a.m. to 6:00 p.m. Saturday, and 8:00 a.m. to 12:00 p.m. Sunday.

c. The developer shall obtain, from the Village Board, final design review approval of the Walgreens building.

3. The Site Plan shall be revised to include at least 1 landscape island within the parking area to the west of the Borders building.

Section 3. This Village Clerk is directed, upon the effective date of this Ordinance, to change the Village's zoning map and official map to reflect that the Property is zoned Planned Unit Development District.

Section 4. The PUD Submittal Package, final stormwater management plan and construction site erosion control plan, covenants and restrictions required by this Ordinance, and comprehensive development agreement, shall together constitute the zoning regulations for the Property, and shall be maintained and kept on file by the Village Clerk. Within 12 months after the date this Ordinance is approved, and before the issuance of any zoning or other permit for the Property, the Developer shall record a memorandum of agreement and declaration of restrictions incorporating the above described zoning regulations for the Property, in a form acceptable to the Village Attorney, with the Dane County Register of Deeds Office, or this Ordinance shall become null and void.

Section 5. This Ordinance shall take effect only if, by October 31, 2000 or such later date as the Village Board may by motion allow: (1) all of the Property is owned by the Applicants, or, all owners of any of the Property, other than the Applicants, consent in writing to the provisions of this Ordinance; (2) the Developer executes a comprehensive development agreement, acceptable to the Village, governing the redevelopment of the Property, the construction of all public improvements on the Property, guarantees as to project value, and the satisfaction

of all of the conditions in this Ordinance; and, (3) this ordinance has been posted pursuant to law.

The above and foregoing ordinance was duly adopted by the Village Board of the Village of Shorewood Hills at its meeting held on November 20, 2000, by a vote of _____ in favor, _____ opposed, and _____ not voting.

APPROVED:

James W. Thomas, Village President

ATTEST:

Thomas George Popp, Jr.,
Village Administrator/Clerk

ADOPTED: _____ 2000

POSTED: _____ 2000