

VILLAGE OF DOWNERS GROVE

Report for the Village

3/12/2024

SUBJECT:	SUBMITTED BY:
Special Use Extension for 1330 Butterfield Road	Stan Popovich, AICP Director of Community Developpent

SYNOPSIS

An ordinance has been prepared granting a six-month extension to Special Use Ordinance No. 5477 which authorized a restaurant with a drive through and parking variation for the Butterfield Road Plaza.

STRATEGIC PLAN ALIGNMENT

The goals for the 2023-2025 Strategic Plan include promoting a *Strong and Diverse Local Economy*.

FISCAL IMPACT

N/A

RECOMMENDATION

At the discretion of the Village Council.

BACKGROUND

On March 7, 2023, the Village Council approved a Special Use to allow a drive-through with a parking variation to permit the construction of a Wendy’s at 1330 Butterfield Road. At this time, the petitioner has yet to receive a building permit to construct the building. Per Section 12.050(i) of the Zoning Ordinance, a special use approval will lapse after one year if a building permit has not been issued.

Since their approval, Wendy’s has redesigned their prototypical building which has resulted in changes to the building and minor changes to the site plan to accommodate the new building design. The petitioner has been working to ensure the proposed building meets the original conditions of approval.

On February 28, 2024, the petitioner requested that the Village Council grant a six-month extension of the Special Use approval. The Village Council is authorized to extend the expiration period for good cause on up to two separate occasions, by up to six months each. This is the first request to extend the expiration period. Approval of the extension would allow the applicant until September 7, 2024 to obtain a building permit. A building permit is good for one year after its issuance.

However, if the Village Council does not authorize an extension of the special use, no substantially similar application may be accepted for the same property for 12 months from the date of denial by the Village Council. The Village would not be able to accept a substantially similar application until April 2, 2025. A similar application would be required to go through the public hearing process again which typically takes

three to four months and subsequently a building permit process whose timeline varies based on the complexity of the project.

ATTACHMENTS

Ordinance
Petitioner’s request letter dated February 28, 2024
Ordinance No. 5477

ORDINANCE NO. _____

**AN ORDINANCE AUTHORIZING
AN EXTENSION OF SPECIAL USE ORDINANCE 5477
FOR 1300-1418 BUTTERFIELD ROAD
TO PERMIT A RESTAURANT WITH DRIVE-THROUGH
AND PARKING VARIATION TO SEPTEMBER 7, 2024**

WHEREAS, on March 7, 2023, the Village of Downers Grove has previously approved Ordinance No. 5477 entitled "AN ORDINANCE AUTHORIZING A SPECIAL USE FOR 1300-1418 BUTTERFIELD ROAD TO PERMIT A RESTAURANT WITH DRIVE THROUGHT AND PARKING VARIATION FOR THE BUTTERFIELD ROAD PLAZA"; and

WHEREAS, pursuant to the Downers Grove Zoning Ordinance, Section 28.12.050(I), "The Village Council is authorized to extend the expiration period for good cause on up to two separate occasions, by up to six (6) months each. Requests for extensions must be submitted to the Community Development Director and forwarded to the Village Council for a final decision"; and

WHEREAS, the owner of the Property has made a request for an extension of the improvements authorized under Ordinance No. 5477; and

WHEREAS, the Village Council has considered such request and has determined that it is in the best interest of the Village of Downers Grove to extend the Special Use approval as requested.

NOW, THEREFORE, BE IT ORDAINED by the Village Council of the Village of Downers Grove as follows:

SECTION 1. That the Special Use approval as set forth in Ordinance No. 5477, permitting a restaurant with drive-through and parking variation at 1300-1418 Butterfield Road, is hereby extended to September 7, 2024.

SECTION 2. That this ordinance shall be in full force an effect from and after its adoption in the manner provided by law.

Passed:

Published:

Attest: _____

Mayor

Village Clerk



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February 28, 2024

Stanley Popovich
Community Development Director | Village of Downers Grove
801 Burlington Avenue
Downers Grove, IL 60515

Project: Wendy's Downers Grove; 1422 Butterfield Rd.

Regarding: Extension of the Approved Project Variance

Mr. Popovich:

I hope this letter finds you well. I am writing to inform you that we would like to request an extension of Special Use Ordinance No. 5477 which authorized a restaurant with a drive-through and parking variation. We are requesting an extension due to the timing of said approval unfortunately aligned with Wendy's prototype redesign of their product. Wendy's wanted to showcase their new store design in Downers Grove and as a result we needed additional time for Wendy's to finalize the design as well as making sure the redesign fell within the standards and guidelines of our approved site plan. Please let me know if you have any questions or need any additional information from us and we would be happy to oblige.

Sincerely.

A handwritten signature in black ink, appearing to read 'Corey Bruce', with a long horizontal line extending to the right.

Corey Bruce
North American Real Estate

1300-1418 Butterfield
Special Use - 22-PCE-1004**ORDINANCE NO. 5477****AN ORDINANCE AUTHORIZING A SPECIAL USE FOR
1300-1418 BUTTERFIELD ROAD
TO PERMIT A RESTAURANT WITH DRIVE THROUGH AND
PARKING VARIATION FOR THE BUTTERFIELD ROAD PLAZA**

WHEREAS, the following described property, to wit:

PARCEL 1:

PART OF LOTS 2 AND 3, OAK GROVE CENTRE OF COMMERCE UNIT 1 BEING A SUBDIVISION OF PART OF THE EAST 1/2 OF SECTION 30, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED FEBRUARY 7, 1972 AS DOCUMENT R72-6195 IN DUPAGE COUNTY, ILLINOIS BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 2; THENCE NORTH 01 DEGREE 04 MINUTES 56 SECONDS WEST, 457.09 FEET; THENCE NORTH 88 DEGREES 55 MINUTES 04 SECONDS EAST, 66.00 FEET; THENCE NORTH 01 DEGREE 04 MINUTES 56 SECONDS WEST, 63.42 FEET; THENCE SOUTH 89 DEGREES 10 MINUTES 35 SECONDS EAST, 837.78 FEET; THENCE SOUTH 01 DEGREE 04 MINUTES 56 SECONDS EAST, 381.60 FEET; THENCE SOUTH 81 DEGREES 54 MINUTES 34 SECONDS WEST, 910.12 FEET TO THE POINT OF BEGINNING.

PARCEL 2:

NON-EXCLUSIVE EASEMENT FOR THE BENEFIT OF PARCEL 1 CREATED BY GRANTS CONTAINED IN AN ACCESS ROAD CONSTRUCTION, OPERATION, MAINTENANCE, AND RECIPROCAL EASEMENT AGREEMENT DATED NOVEMBER 27, 1981 AND RECORDED JUNE 10, 1982 AS DOCUMENT R82-23852 MADE BY AND BETWEEN NATIONAL BOULEVARD BANK OF CHICAGO, AS TRUSTEE UNDER TRUST AGREEMENT DATED MARCH 24, 1978 AND KNOWN AS TRUST NUMBER 5994, NATIONAL BOULEVARD BANK OF CHICAGO, AS TRUSTEE UNDER TRUST AGREEMENT DATED DECEMBER 22, 1970 AND KNOWN AS TRUST NUMBER 3632, AND DROVER'S BANK OF CHICAGO, AS TRUSTEE UNDER TRUST AGREEMENT DATED JANUARY 22, 1980 AND KNOWN AS TRUST NUMBER 80012, FOR INGRESS AND EGRESS PURPOSES ON, OVER, THROUGH, UPON AND ACROSS THE FOLLOWING DESCRIBED LAND:

A) THAT PART OF LOT 1 IN OAK GROVE CENTRE OF COMMERCE UNIT 1, BEING A SUBDIVISION OF PART OF THE EAST 1/2 OF SECTION 30, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED FEBRUARY 7, 1972 AS DOCUMENT R72-6195, DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 1; THENCE SOUTH 1 DEGREE 04 MINUTES 56 SECONDS EAST ALONG THE EAST LINE OF SAID LOT, A DISTANCE OF 245.61 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 1 DEGREE 04 MINUTES 56 SECONDS EAST ALONG SAID EAST LINE A DISTANCE OF 116.0 FEET; THENCE SOUTH 88 DEGREES 55 MINUTES 04 SECONDS WEST, A DISTANCE OF 8.95 FEET; THENCE NORTH 1 DEGREE 04 MINUTES 56 SECONDS WEST, A DISTANCE OF 116.0 FEET; THENCE NORTH 88 DEGREES 55 MINUTES 04 SECONDS EAST A DISTANCE OF 8.95 FEET TO THE POINT OF BEGINNING, IN DUPAGE COUNTY, ILLINOIS.

B) THAT PART OF LOT 1 IN OAK GROVE CENTRE OF COMMERCE UNIT 1, BEING A SUBDIVISION OF PART OF THE EAST 1/2 OF SECTION 30, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED FEBRUARY 7, 1972 AS DOCUMENT R72-6195, DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTH EAST CORNER OF LOT 1; THENCE SOUTH 1 DEGREE 04 MINUTES 56 SECONDS EAST, ALONG THE EAST LINE OF SAID LOT, 361.61 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 88 DEGREES 55 MINUTES 04 SECONDS WEST, 415.35 FEET TO A POINT ON THE WEST LINE OF SAID LOT (SAID POINT BEING 375.50 FEET SOUTH OF THE NORTHWEST CORNER OF SAID LOT); THENCE SOUTH 1 DEGREE 04 MINUTES 56 SECONDS EAST ALONG THE WEST LINE OF SAID LOT 35.00 FEET; THENCE NORTH 88 DEGREES 55 MINUTES 04 SECONDS EAST, 415.35 FEET TO A POINT ON THE EAST LINE OF SAID LOT; THENCE NORTH 1 DEGREE 04 MINUTES 56 SECONDS EAST ALONG SAID EAST LINE OF SAID LOT, 35 FEET TO THE POINT OF BEGINNING, IN DUPAGE COUNTY, ILLINOIS.

PARCEL 3:

NON-EXCLUSIVE EASEMENT FOR THE BENEFIT OF PARCEL 1 CREATED BY A GRANT CONTAINED IN A DEED DATED MAY 24, 1982 AND RECORDED JUNE 17, 1982 AS DOCUMENT R82-25038 FROM NATIONAL BOULEVARD BANK OF CHICAGO, AS TRUSTEE UNDER TRUST AGREEMENT DATED DECEMBER 22, 1970 AND KNOWN AS TRUST NUMBER 3632 TO KATHLEEN M. VYBORNY FOR INGRESS AND EGRESS PURPOSES PURSUANT TO THE TERMS OF AN ACCESS ROAD CONSTRUCTION, OPERATION, MAINTENANCE AND RECIPROCAL EASEMENT AGREEMENT DATED NOVEMBER 27, 1981 AND RECORDED JUNE 10, 1982 AS DOCUMENT R82-23852 OVER, THROUGH, UPON AND ACROSS THE FOLLOWING DESCRIBED LAND:

THE NORTH 180 FEET OF THE FOLLOWING DESCRIBED LAND:

THAT PART OF LOT 2 IN OAK GROVE CENTRE OF COMMERCE, UNIT 1, BEING A SUBDIVISION OF PART OF THE EAST 1 /2 OF SECTION 30, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED FEBRUARY 7, 1972 AS DOCUMENT R72-6195, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 2; THENCE SOUTH 1 DEGREE 04 MINUTES 56 SECONDS EAST ALONG THE WEST LINE OF SAID LOT, A DISTANCE OF 245.61 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 1 DEGREE 04 MINUTES 56 SECONDS EAST ALONG SAID WEST LINE A DISTANCE OF 116.0 FEET; THENCE NORTH 88 DEGREES 55 MINUTES 04 SECONDS EAST, A DISTANCE OF 16 FEET; THENCE NORTH 1 DEGREE 04 MINUTES 56 SECONDS WEST, A DISTANCE OF 92.0 FEET; THENCE NORTH 88 DEGREES 55 MINUTES 04 SECONDS EAST, A DISTANCE OF 74 FEET; THENCE NORTH 1 DEGREE 04 MINUTES 56 SECONDS WEST, A DISTANCE OF 266.62 FEET TO A POINT ON THE NORTHERLY LINE OF SAID LOT 2; THENCE NORTH 89 DEGREES 10 MINUTES 46 SECONDS WEST ALONG THE NORTHERLY LINE OF SAID LOT 2, A DISTANCE OF 24.01 FEET; THENCE SOUTH 1 DEGREE 04 MINUTES 56 SECONDS EAST A DISTANCE OF 243.42 FEET; THENCE SOUTH 88 DEGREES 55 MINUTES 04 SECONDS WEST A DISTANCE OF 66 FEET TO THE POINT OF BEGINNING, IN DUPAGE COUNTY, ILLINOIS.

PARCEL 4:

NON-EXCLUSIVE EASEMENT FOR THE BENEFIT OF PARCEL 1 CREATED BY GRANTS CONTAINED IN A DEED DATED MAY 24, 1982 AND RECORDED JUNE 17, 1982 AS DOCUMENT R82-25038 FROM NATIONAL BOULEVARD BANK OF CHICAGO, AS TRUSTEE

UNDER TRUST AGREEMENT DATED DECEMBER 22, 1970 AND KNOWN AS TRUST NUMBER 3632 TO KATHLEEN M. VYBORNÝ PURSUANT TO THE TERMS OF A DECLARATION OF SERVICE AND ROAD EASEMENTS DATED NOVEMBER 27, 1982 AND RECORDED JUNE 10, 1982 AS DOCUMENT R82-23851 FOR VEHICULAR ACCESS FOR THE PURPOSE OF PROVIDING INGRESS AND EGRESS, AND FOR THE CONSTRUCTION, MAINTENANCE, REPLACEMENT AND USE OF SERVICE ROADS, AND PERPETUAL EASEMENTS IN THE EASEMENT PARCELS FOR THE INSTALLATION, USE, OPERATION, MAINTENANCE, REPAIR, REPLACEMENT, RELOCATION AND REMOVAL OF UNDERGROUND UTILITY FACILITIES, IN AND UPON THE FOLLOWING DESCRIBED LANDS:

A) THAT PART OF LOT 2 IN OAK GROVE CENTRE OF COMMERCE, UNIT 1, BEING A SUBDIVISION OF PART OF THE EAST 1/2 OF SECTION 30, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED FEBRUARY 7, 1972 AS DOCUMENT R72-6195, DESCRIBED AS FOLLOWS:

THE SOUTH 24 FEET OF THE EASTERLY 20 FEET OF LOT 2, AS MEASURED AT RIGHT ANGLES TO THE EASTIERLY LINE THEREOF OF THE NORTHERLY 180 FEET, AS MEASURED AT RIGHT ANGLES TO THE NORTHERLY LINE THEROF, IN DUPAGE COUNTY, ILLINOIS.

B) THAT PART OF LOT 3 IN OAK GROVE CENTRE OF COMMERCE, UNIT 1, BEING A SUBDIVISION OF PART OF THE EAST 1/2 OF SECTION 30, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED FEBRUARY 7, 1972 AS DOCUMENT R72-6195, DESCRIBED AS FOLLOWS:

THE SOUTH 24 FEET OF THE WESTIERLY 10 FEET OF LOT 3, AS MEASURED AT RIGHT ANGLES TO THE WESTERLY LINE THEREOF, OF THE NORTHERLY 180 FEET PURSUANT TO DOCUMENT R82-25038, 204 FEET PURSUANT TO DOCUMENT R82-23851, AS MEASURED AT RIGHT ANGLES TO THE NORTHERLY LINE THEREOF, OF LOT 3, AFORESAID, IN DUPAGE COUNTY, ILLINOIS.

C) THAT PART OF LOT 3 IN OAK GROVE CENTRE OF COMMERCE UNIT 1, BEING A SUBDIVISION OF PART OF THE EAST 1/2 OF SECTION 30, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED FEBRUARY 7, 1972 AS DOCUMENT R72-6195, DESCRIBED AS FOLLOWS:

THE SOUTHERLY 24 FEET OF LOT 3 OF THE NORTHERLY 180 FEET, AS MEASURED AT RIGHT ANGLES TO THE NORTHERLY LINE THEREOF (EXCEPT THE WESTERLY 10 FEET, AS MEASURED AT RIGHT ANGLES TO THE WEST LINE THEREOF) OF LOT 3, AFORESAID, IN DUPAGE COUNTY, ILLINOIS.

THIS DESCRIPTION DESCRIBES ALL THE LAND DESCRIBED IN THE TITLE COMMITMENT IDENTIFIED AS CHICAGO TITLE INSURANCE COMPANY COMMITMENT NUMBER 17PSA130131LP BEARING AN EFFECTIVE DATE OF FEBRUARY 24, 2017.

Commonly known as: 1300-1418 Butterfield Road, Downers Grove, IL 60515
PIN: 06-30-404-015

(hereinafter referred to as the "Property") is presently zoned in the "*B-3, General Services and Highway Business District*" under the Comprehensive Zoning Ordinance of the Village of Downers Grove; and

WHEREAS, the owner of the Property has filed with the Plan Commission, a written petition conforming to the requirements of the Zoning Ordinance, requesting that a Special Use per Section 28.12.050 of the Zoning Ordinance be granted to permit a restaurant with a drive-through including the following Variation:

1. Variation per Section 28.7.030, *Parking*, to decrease the required parking spaces from four hundred ten (410) to three hundred ninety-nine (399).

WHEREAS, such petition was referred to the Plan Commission of the Village of Downers Grove, and said Plan Commission has given the required public notice, has conducted a public hearing for the petition on February 6, 2023 and has made its findings and recommendations, all in accordance with the statutes of the State of Illinois and the ordinances of the Village of Downers Grove; and,

WHEREAS, the Plan Commission has recommended approval of the Special Use and Variation, subject to certain conditions; and,

WHEREAS, the Village Council finds that the evidence presented in support of said petition, as stated in the aforesaid findings and recommendations of the Plan Commission, is such as to establish the following:

1. That the proposed use is expressly authorized as a Special Use in the district in which it is to be located;
2. That the proposed use at the proposed location is necessary or desirable to provide a service or a facility that is in the interest of public convenience and will contribute to the general welfare of the neighborhood or community.
3. That the proposed use will not, in the particular case, be detrimental to the health, safety or general welfare of persons residing or working in the vicinity or be injurious to property values or improvements in the vicinity.

WHEREAS, the Village Council finds that the evidence presented in support of said petition, as stated in the aforesaid findings and recommendations of the Plan Commission, is such as to establish the standards for granting a variation per Section 28.12.090.G have been met; and,

1. No variation may be approved unless the variation to be approved is consistent with the spirit and intent of this zoning ordinance and that strict compliance with the subject provisions would result in practical difficulties or particular hardships for the subject property owner.
2. The consideration of whether a variation request has met the standards of practical difficulties or particular hardships must include all of the following findings from the evidence presented:
 - a. the subject property cannot yield a reasonable return if required to comply with the regulations that apply to it;
 - b. the plight of the owner is due to unique circumstances; and
 - c. the variation, if granted, will not alter the essential character of the locality.

3. In addition, the hearing body must also take into consideration the extent to which the following facts, favorable to the property owner, have been established by the evidence presented:
 - a. that the physical surroundings, shape, or topographical conditions of the subject property would result in a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out;
 - b. that the conditions leading to the need of the requested variation are not applicable, generally, to other properties within the same zoning classification;
 - c. that the alleged difficulty or hardship was not created by the current property owner;
 - d. that the proposed variation will not impair an adequate supply of air to adjacent property, or substantially increase the danger of fire, or otherwise endanger the public safety, or substantially diminish or impair property values within the neighborhood;
 - e. that the proposed variation will not alter the essential character of the area; and
 - f. that the granting of the variation will not confer on the subject property owner, any special privilege that is not available to other properties or structures in the same district.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Downers Grove, in DuPage County, Illinois, as follows:

SECTION 1. That Special Use of the Property is hereby granted to permit a restaurant with drive-through with a parking variation.

SECTION 2. This approval is subject to the following conditions:

1. The Special Use, Parking Variation and a Plat of Subdivision with an exception to the minimum lot depth standards shall substantially conform to the staff report dated February 6, 2023; and civil drawings prepared by RTM Engineering Consultants submitted on 12/8/22 and updated 1/25/23 and the architectural drawings submitted on 12/8/22 and updated on 1/25/23 except as such plans may be modified to conform to the Village codes and ordinances.
2. A perpetual cross access and parking easement is provided between Lots 1 and Lot 2 and is shown on the Plat of Subdivision.
3. The photometric plan shall conform to the Village Zoning Ordinance.
4. All signage shall be permitted separately and conform to the Village's Sign Ordinance.
5. A final plat of subdivision will be recorded prior to permit issuance.

SECTION 3. The above conditions are hereby made part of the terms under which the Special Use with Variation is granted. Violation of any or all of such conditions shall be deemed a violation of the Village of Downers Grove Zoning Ordinance, the penalty for which may include, but is not limited to, a fine and/or revocation of the Special Use with Variation granted herein.

SECTION 4. It is the Petitioner's obligation to maintain compliance with all applicable Federal, State, County and Village laws, ordinances, regulations, and policies.

SECTION 5. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Passed: 03/07/2023

Published: 03/08/2023

Attest:


Village Clerk


Mayor

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