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Doc#: 1329839097 Fee: \$84.00  
Karen A. Yarbrough  
Cook County Recorder of Deeds  
Date: 10/25/2013 01:34 PM Pg: 1 of 24

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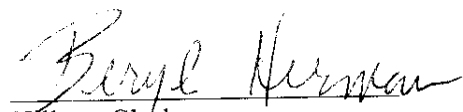
## VILLAGE OF LINCOLNWOOD

ORDINANCE NO. 2013-3072

### AN ORDINANCE GRANTING A SPECIAL USE PERMIT AND VARIATIONS FOR THE DEVELOPMENT OF 4007 W. TOUHY AVENUE

ADOPTED BY THE  
PRESIDENT AND BOARD OF TRUSTEES  
OF THE VILLAGE OF LINCOLNWOOD  
THIS 15<sup>th</sup> DAY OF OCTOBER, 2013.

Published in pamphlet form  
by the authority of the  
President and Board of Trustees  
of the Village of Lincolnwood,  
Cook County, Illinois this  
15<sup>th</sup> day of October, 2013

  
Village Clerk

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## **AN ORDINANCE GRANTING A SPECIAL USE PERMIT AND VARIATIONS FOR THE DEVELOPMENT OF 4007 W. TOUHY AVENUE**

WHEREAS, Next Touhy, LLC ("**Owner**") is the record title owner of that certain property located in the B2 General Business District ("**B-2 District**"), commonly known as 4007 West Touhy Avenue, and legally described in **Exhibit A** attached to and, by this reference, made a part of this Ordinance ("**Property**"); and

WHEREAS, the Property is improved with an existing vacant 1,700-square-foot building and an existing hardsurfaced off-street parking lot; and

WHEREAS, on April 16, 2013, the Village President and Board of Trustees adopted Ordinance No. 2013-3048, granting variations to the Owner to permit the re-use of the existing building and the expansion and reconstruction of the existing off-street parking lot on the Property; and

WHEREAS, the building has not been re-used, and the parking lot has not been expanded or reconstructed, as contemplated by Ordinance No. 2013-3048; and

WHEREAS, The PrivateBank and Trust Company, the contract purchaser of the Property ("**Applicant**"), now desires to demolish the existing building and parking lot, and to construct a new building and reconstructed parking lot on the Property, all for use of the Property as a bank ("**Proposed Development**"); and

WHEREAS, the Proposed Development includes a two-lane drive-through facility ("**Proposed Drive-Through Facility**"); and

WHEREAS, pursuant to Section 4.07(8) of "The Village of Lincolnwood Zoning Ordinance," as amended ("**Zoning Ordinance**"), drive-through facilities may not be operated in the B-2 District except upon issuance of a special use permit by the Board of Trustees; and

WHEREAS, pursuant to Section 4.07(8)(b) of the Zoning Ordinance, not less than four vehicular stacking spaces must be provided for each bay window or machine within the Proposed Drive-Through Facility; and

WHEREAS, one of the two lanes of the Proposed Drive-Through Facility will have only three vehicular stacking spaces in violation of Section 4.07(8)(b) of the Zoning Ordinance; and

WHEREAS, pursuant to Sections 6.11(1) and 6.11(5) of the Zoning Ordinance, the Applicant must provide all landscaping required pursuant to Part D of Article 6 of the Zoning Ordinance in connection with the expansion and reconstruction of the off-street parking lot on the Property; and

WHEREAS, pursuant to Section 6.14(1) of the Zoning Ordinance, the minimum perimeter landscape width for off-street parking lots is eight feet; and

WHEREAS, the Applicant desires to improve the Property with an eight-foot-wide landscaped area along the perimeter of the Property, except for a five-foot-wide section along the

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easterly lot line of the Property ("**Proposed Perimeter Landscaping**"), which encroachment is in violation of Section 6.14(1) of the Zoning Ordinance; and

WHEREAS, pursuant to Section 6.14(2) of the Zoning Ordinance, a planting island equal in area to a parking space is required to be located at the end of each parking row within off-street parking lots; and

WHEREAS, pursuant to Table 7.06.01 of the Zoning Ordinance, the off-street parking spaces on the Property must be at least nine feet in width and 18 feet in length; and

WHEREAS, the Applicant proposes to install a six-foot by 18-foot planting island at the eastern end of the northernmost parking row within the off-street parking lot on the Property ("**Proposed Planting Island**"), in violation of Section 6.14(2) of the Zoning Ordinance; and

WHEREAS, pursuant to Section 7.06(5) of the Zoning Ordinance, off-street parking is not permitted in required front and corner side yards; and

WHEREAS, the Applicant desires to improve the Property with off-street parking spaces in the required front and corner side yards of the Property, in violation of Section 7.06(5) of the Zoning Ordinance; and

WHEREAS, the Owner, the Applicant, and the Village desire for the Property to be put to its optimum use; and

WHEREAS, in order to permit the proposed redevelopment and reuse of the Property, the Applicant, with the consent of the Owner, has filed an application for: (i) a special use permit, and a variation from the minimum stacking space requirement set forth in Section 4.07(8)(b) of the Zoning Ordinance, to permit the operation of the Proposed Drive-Through Facility; (ii) variations from the minimum landscaping requirements set forth in Sections 6.14(1) and 6.14(2) of the Zoning Ordinance, to permit the installation of the Proposed Perimeter Landscaping and Proposed Planting Island on the Property; and (iii) a variation from Section 7.06(5) of the Zoning Ordinance to permit the location of off-street parking spaces within the required front and corner side yards of the Property (collectively, the "**Requested Relief**"); and

WHEREAS, a public hearing of the Plan Commission of the Village of Lincolnwood to consider approval of the Requested Relief was duly advertised in the *Lincolnwood Review* on August 22, 2013 and held on September 11, 2013; and

WHEREAS, on September 11, 2013, the Plan Commission made findings and recommendations in support of the Requested Relief, subject to specified conditions; and

WHEREAS, the Village President and Board of Trustees have determined that the Requested Relief meets the required standards for special use permits and variations as set forth in Article V of the Zoning Ordinance; and

WHEREAS, the Village President and Board of Trustees have determined that it will serve and be in the best interests of the Village to grant the Requested Relief, subject to the conditions, restrictions, and provisions of this Ordinance;

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**NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE PRESIDENT AND BOARD OF TRUSTEES OF LINCOLNWOOD, COOK COUNTY, ILLINOIS**, as follows:

SECTION 1. RECITALS. The facts and statements contained in the preamble to this Ordinance are found to be true and correct and are hereby adopted as part of this Ordinance.

SECTION 2. APPROVAL OF SPECIAL USE PERMIT. In accordance with, and pursuant to, Article V of the Zoning Ordinance and the home rule powers of the Village, and subject to, and contingent upon, the conditions, restrictions, and provisions set forth in Section 4 of this Ordinance, the Village President and Board of Trustees hereby grant a special use permit to the Applicant for the construction and use of the Proposed Drive-Through Facility on the Property.

SECTION 3. APPROVAL OF REQUESTED VARIATIONS. In accordance with and pursuant to Article V of the Zoning Ordinance and the home rule powers of the Village, and subject to, and contingent upon, the conditions, restrictions, and provisions set forth in Section 4 of this Ordinance, the Village President and Board of Trustees hereby grant the following variations from the Zoning Ordinance in connection with the Proposed Use of the Property:

- A. Vehicular Stacking Space Requirement. A variation from Section 4.07(8)(b) of the Zoning Ordinance to decrease the minimum number of vehicular stacking spaces for the Proposed Drive-Through Facility on the Property, from four spaces to three spaces for one lane of the Facility.
- B. Perimeter Landscape Width. A variation from Section 6.14(1) of the Zoning Ordinance to decrease the minimum perimeter landscaped area width along the easterly perimeter of the off-street parking lot on the Property, from eight feet to five feet along an approximate 65-foot long section along the easterly lot line of the Property.
- C. Planting Islands. A variation from Section 6.14(2) of the Zoning Ordinance to decrease the minimum size of the planting island at the eastern end of the northernmost parking row within the off-street parking lot on the Property, from nine feet by 18 feet to six feet by 18 feet.
- D. Off-Street Parking. A variation from Section 7.06(5) of the Zoning Ordinance to permit off-street parking in the required front and corner side yards of the Property.

SECTION 4. CONDITIONS. Notwithstanding any use or development right that may be applicable or available pursuant to the provisions of the Zoning Ordinance, the approvals granted pursuant to Sections 2 and 3 of this Ordinance are hereby expressly subject to, and contingent upon, the development, use, and maintenance of the Building and the Property in compliance with each and all of the following conditions:

- A. Compliance with Regulations. Except to the extent specifically provided otherwise in this Ordinance, the development, use, operation, and maintenance of the Proposed Drive-Through Facility and the Property must comply at all times

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with all applicable Village codes and ordinances, as the same have been or may be amended from time to time.

- B. Compliance with Site Plan. Except for minor changes and site work approved by the Village Zoning Officer or the Village Engineer (for matters within their respective permitting authorities) in accordance with all applicable Village standards, the development, use, operation, and maintenance of the Proposed Drive-Through Facility and the Property (including, without limitation, the construction of the new building and installation of the Proposed Perimeter Landscaping and Proposed Planting Island) must comply with the following plans, copies of which are attached to and, by this reference, made a part of this Ordinance as **Group Exhibit B** (collectively, the "**Plans**"):
1. The Proposed Site Plan, with a date of August 12, 2013, prepared by Camburas & Theodore, Ltd., consisting of one sheet;
  2. The Proposed Landscape Plan, with a date of August 12, 2013, prepared by Camburas & Theodore, Ltd., consisting of two sheets;
  3. The Proposed East Elevation, Proposed West Elevation, Proposed North Elevation Plan, and Proposed South Elevation Plan, prepared by Camburas & Theodore, Ltd., consisting of one sheet; and
  4. The Proposed Sign Wall Plan, with a date of August 8, 2013, prepared by H.M. Witt & Co. Signs, consisting of one sheet and the Proposed Monument Sign Plan, with a date of August 9, 2013, prepared by H.M. Witt & Co. Signs, consisting of one sheet.
- C. Screening of Rooftop Equipment. All equipment installed on the roof of any building or structure constructed on the Property must be screened from view on all sides with sound-attenuating measures, in order to minimize visual and sound impact of such equipment.
- D. Light Spillage. The southerly and westerly elevations of the new building to be constructed on the Property must be constructed in a manner and of materials so as to prevent light spillage onto the residential properties that adjoin the Property.
- E. Reimbursement of Village Costs. In addition to any other costs, payments, fees, charges, contributions, or dedications required under applicable Village codes, ordinances, resolutions, rules, or regulations, the Applicant must pay to the Village, promptly upon presentation of a written demand or demands therefor, all legal fees, costs, and expenses incurred or accrued in connection with the review, negotiation, preparation, consideration, and review of this Ordinance. Payment of all such fees, costs, and expenses for which demand has been made must be made by a certified or cashier's check. Further, the Applicant must pay upon demand all costs incurred by the Village for publications and recordings required in connection with the aforesaid matters.

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SECTION 5. REPEALER. Ordinance No. 2013-3048 is hereby repealed in its entirety, and hereafter is of no force or effect.

SECTION 6. RECORDATION; BINDING EFFECT. A copy of this Ordinance will be recorded with the Cook County Recorder of Deeds. This Ordinance and the privileges, obligations, and provisions contained herein inure solely to the benefit of, and are binding upon, the Owner, the Applicant, and each of their heirs, representatives, successors, and assigns.

SECTION 7. FAILURE TO COMPLY WITH CONDITIONS. Upon the failure or refusal of the Owner or the Applicant to comply with any or all of the conditions, restrictions, or provisions of this Ordinance, as applicable, the approvals granted in Sections 2 and 3 of this Ordinance may, at the sole discretion of the Village President and Board of Trustees, by ordinance duly adopted, be revoked and become null and void; provided, however, that the Village President and Board of Trustees may not so revoke the approvals granted in Sections 2 and 3 of this Ordinance unless they first provide the Owner and the Applicant with two months advance written notice of the reasons for revocation and an opportunity to be heard at a regular meeting of the Village President and Board of Trustees. In the event of revocation, the development and use of the Property will be governed solely by the regulations of the B-2 District, and the applicable provisions of the Zoning Ordinance, as the same may, from time to time, be amended. Further, in the event of such revocation, the Village Manager and Village Attorney are hereby authorized and directed to bring such zoning enforcement action as may be appropriate under the circumstances.

SECTION 8. AMENDMENTS. Any amendments to the approvals granted in Sections 2 and 3 of this Ordinance that may be requested by the Owner or the Applicant after the effective date of this Ordinance may be granted only pursuant to the procedures, and subject to the standards and limitations, provided in the Zoning Ordinance.

SECTION 9. SEVERABILITY. If any provision of this Ordinance or part thereof is held invalid by a court of competent jurisdiction, the remaining provisions of this Ordinance are to remain in full force and effect, and are to be interpreted, applied, and enforced so as to achieve, as near as may be, the purpose and intent of this Ordinance to the greatest extent permitted by applicable law.

## SECTION 10. EFFECTIVE DATE.

- A. This Ordinance will be effective only upon the occurrence of all of the following events:
1. Passage by the Village President and Board of Trustees in the manner required by law;
  2. Publication in pamphlet form in the manner required by law; and
  3. The filing by the Owner and the Applicant with the Village Clerk of an Unconditional Agreement and Consent, in the form of **Exhibit C** attached to and, by this reference, made a part of this Ordinance, to accept and abide by each and all of the terms, conditions, and limitations set forth in

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this Ordinance and to indemnify the Village for any claims that may arise in connection with the approval of this Ordinance.

- B. In the event the Owner and the Applicant do not file fully executed copies of the Unconditional Agreement and Consent, as required by Section 10.A.3 of this Ordinance, within 30 days after the date of final passage of this Ordinance, the Village President and Board of Trustees will have the right, in its sole discretion, to declare this Ordinance null and void and of no force or effect.

[SIGNATURE PAGE FOLLOWS]

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PASSED this 15<sup>th</sup> day of October, 2013.

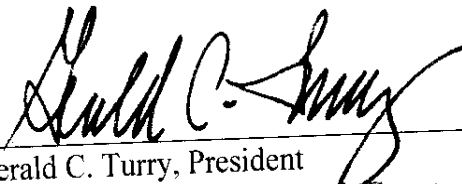
AYES: Trustees Patel, Sprogis-Marohn, Cope, Elster, Klatzco, Leftakes

NAYS: None

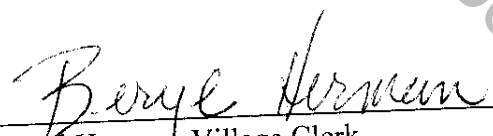
ABSENT: None

ABSTENTION: None

APPROVED by me this 15<sup>th</sup> day of October, 2013.

  
\_\_\_\_\_  
Gerald C. Turry, President  
Village of Lincolnwood, Cook County, Illinois

ATTESTED and FILED in my office this  
15<sup>th</sup> day of October, 2013

  
\_\_\_\_\_  
Beryl Herman, Village Clerk  
Village of Lincolnwood, Cook County, Illinois



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## EXHIBIT A

### LEGAL DESCRIPTION OF THE PROPERTY

LOT 18 IN BLOCK 1 IN WITTBOLD'S SECOND ADDITION TO KENILWORTH HIGHLANDS, A SUBDIVISION OF THE NORTHEAST  $\frac{1}{4}$  OF THE NORTHEAST  $\frac{1}{4}$  OF THE NORTHEAST  $\frac{1}{4}$  OF SECTION 34, TOWNSHIP 41 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, ALL IN COOK COUNTY, ILLINOIS.

Commonly referred to as 4007 West Touhy Avenue.

P.I.N.: 10-34-205-020-0000

Property of Cook County Clerk's Office

Exhibit A

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## EXHIBIT C

### UNCONDITIONAL AGREEMENT AND CONSENT

TO: The Village of Lincolnwood, Illinois ("**Village**");

**WHEREAS**, Next Touhy, LLC ("**Applicant**"), is the record title owner of that certain property located in the B2 General Business District, commonly known as 4007 West Touhy Avenue, in the Village ("**Property**"); and

**WHEREAS**, Ordinance No. 2013-3072, adopted by the Village President and Board of Trustees on October 15, 2013 ("**Ordinance**"), grants a special use permit and variations from "The Village of Lincolnwood Zoning Ordinance", as amended, to The PrivateBank and Trust Company ("**Applicant**") for the construction of a new bank building and drive-through facility and the expansion and reconstruction of the parking lot on the Property; and

**WHEREAS**, Section 10 of the Ordinance provides, among other things, that the Ordinance will be of no force or effect unless and until the Owner and the Applicant have filed, within 30 days following the passage of the Ordinance, their unconditional agreement and consent to accept and abide by each and all of the terms, conditions, and limitations set forth in the Ordinance;

**NOW, THEREFORE**, the Owner and the Applicant do hereby agree and covenant as follows:

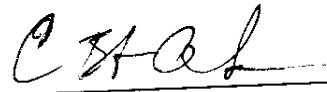
1. The Owner and the Applicant hereby unconditionally agree to, accept, consent to, and abide by each and all of the terms, conditions, limitations, restrictions, and provisions of the Ordinance.
2. The Owner and the Applicant acknowledge that public notices and hearings have been properly given and held with respect to the adoption of the Ordinance, have considered the possibility of the revocation provided for in the Ordinance, and agree not to challenge any such revocation on the grounds of any procedural infirmity or a denial of any procedural right.
3. The Owner and the Applicant acknowledge and agree that the Village is not and will not be, in any way, liable for any damages or injuries that may be sustained as a result of the Village's granting of a special use permit and variations for the Property or its adoption of the Ordinance, and that the Village's approvals do not, and will not, in any way, be deemed to insure the Owner or the Applicant against damage or injury of any kind and at any time.

Exhibit C

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4. The Applicant hereby agrees to hold harmless and indemnify the Village, the Village's corporate authorities, and all Village elected and appointed officials, officers, employees, agents, representatives, and attorneys, from any and all claims that may, at any time, be asserted against any of such parties in connection with the Village's adoption of the Ordinance granting the special use permit and variations for the Property.

**THE PRIVATEBANK AND TRUST  
COMPANY**

By: 

Its: \_\_\_\_\_

Property of Cook County Clerk's Office

Exhibit C

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**OVERSIZE  
EXHIBIT**

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Karen A. Yarbrough  
Cook County Recorder of Deeds  
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**FORWARD ORIGINAL  
DOCUMENT TO PLAT  
COUNTER IMMEDIATELY  
AFTER RECORDING FOR  
SCANNING**