

130 pages
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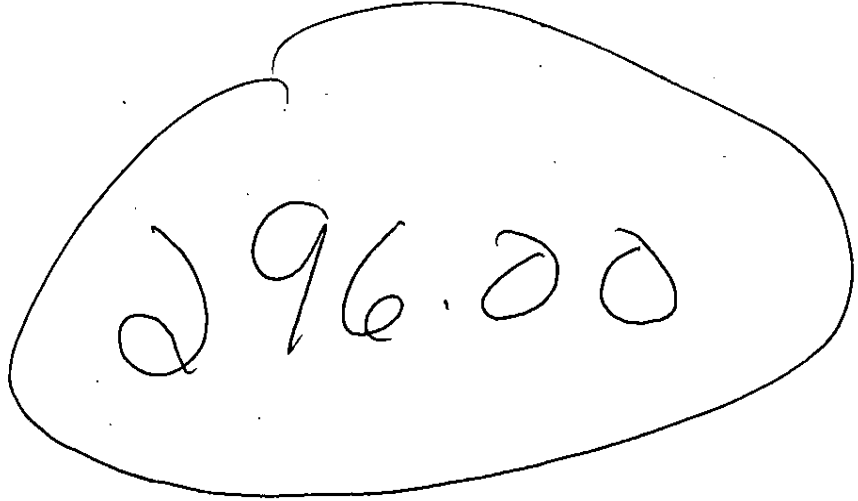
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KAREN A. YARBROUGH

COOK COUNTY RECORDER OF DEEDS

DATE: 05/24/2017 02:17 PM PG: 1 OF 130



Property of Cook County Clerk's Office

COOK COUNTY RECORDER OF DEEDS PLAT RECORDING

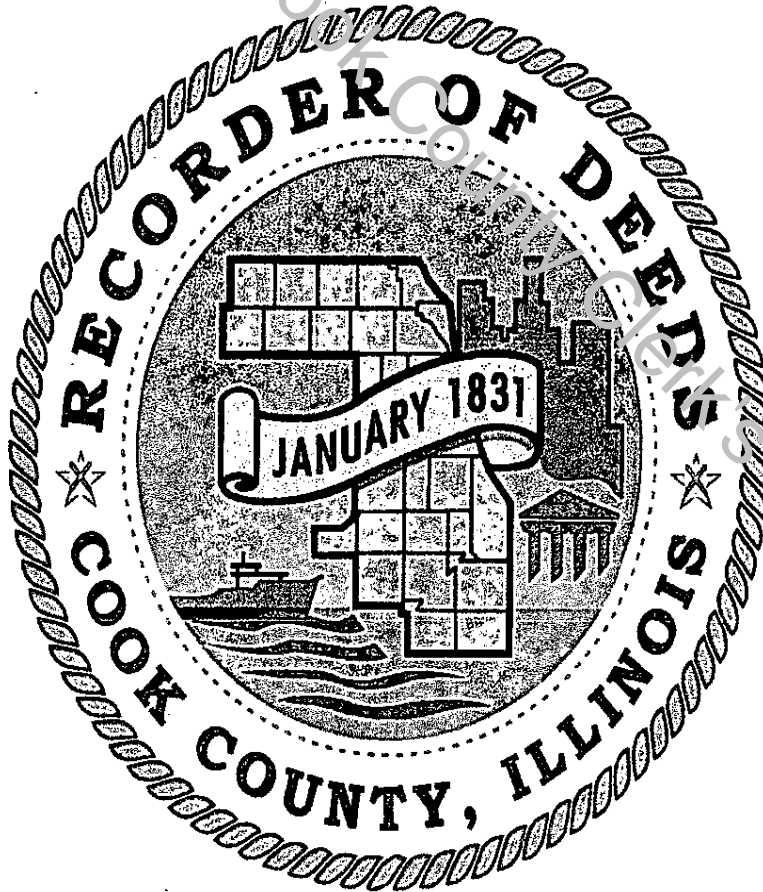


IMAGE STORED IN PLAT INDEX DATABASE

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CITY OF DES PLAINES

ORDINANCE Z - 23 - 16

AN ORDINANCE APPROVING A FINAL PLAT OF PLANNED UNIT DEVELOPMENT WITH A PERMITTED EXCEPTION AND A FINAL PLAT OF SUBDIVISION FOR THE PROPERTY LOCATED AT 800 NORTHWEST HIGHWAY, DES PLAINES, ILLINOIS. (Case #16-048-FPUD-FSUB).

WHEREAS, Buckingham Properties, Inc., d/b/a Dearborn Buckingham ("*Petitioner*"), is the contract purchaser of the property consisting of approximately 21.7 acres, located in the R-4 Central Core Residential District ("*R-4 District*"), commonly known as 800 E. Northwest Highway, Des Plaines, Illinois ("*Subject Property*"); and

WHEREAS, Four Peaks, LLC is the owner of the Subject Property ("*Owner*"); and

WHEREAS, the Petitioner desires to construct on the subject property: (i) 24 townhouse buildings consisting of 127 residential units ("*Townhouses*"); (ii) a five-story multi-family residential building consisting of 279 residential units ("*Apartment Building*"); and (iii) a parking structure containing 467 off-street parking spaces and a surface parking lot containing 73 off-street parking spaces (collectively, "*Proposed Development*"); and

WHEREAS, on July 27, 2015, the Plan Commission of the City of Des Plaines ("*Commission*") approved a preliminary plat of subdivision for the Subject Property; and

WHEREAS, on October 19, 2015, the City Council adopted Ordinance Z-25-15, approving: (i) a map amendment to the R-4 Central Core Residential District; (ii) a preliminary plat of planned unit development of the Subject Property, including a certain proposed exception within the proposed planned unit development; and (iii) a preliminary plat of subdivision for the Subject Property; and

WHEREAS, pursuant to Sections 12-3-4 and 12-3-5 of the Des Plaines Zoning Ordinance of 1998, as amended ("*Zoning Ordinance*"), and Title 13 of the City Code of the City of Des Plaines, as amended ("*Subdivision Regulations*"), the Petitioner filed, with the consent of the owner of the Subject Property, an application with the City for the approval of: (i) a final plat of planned unit development of the Subject Property ("*Proposed Final Plat of PUD*"), including a certain proposed exception within the proposed planned unit development; and (ii) a final plat of subdivision for the Subject Property ("*Proposed Final Plat of Subdivision*"); and

WHEREAS, within fifteen (15) days after the receipt thereof, the Petitioner's application was referred by the Department of Community and Economic Development to the Planning and Zoning Board of the City of Des Plaines ("*PZB*"); and

WHEREAS, within ninety (90) days after the date of the Petitioner's application, a public

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hearing was held by the PZB on August 9, 2016 pursuant to publication in the *Journal* on July 22, 2016; and

WHEREAS, notice of the public hearing was mailed to all property owners within 300 feet of the Subject Property; and

WHEREAS, during the public hearing the PZB heard competent testimony and received evidence with respect to how the Petitioner intended to satisfy and comply with the provisions of the Zoning Ordinance; and

WHEREAS, pursuant to Section 13-2-3 of the Subdivision Regulations, on August 9, 2016 the PZB approved, by a vote of 5-0, the Proposed Final Plat of Subdivision; and

WHEREAS, pursuant to Sections 12-3-7 and 12-3-5 of the Zoning Ordinance, the PZB filed a written report with the City Council on August 9, 2016, summarizing the testimony and evidence received by the PZB and stating its recommendation, by a vote of 5-0, to approve the Proposed Final Plat of PUD, subject to certain conditions; and

WHEREAS, the Petitioner made certain representations to the PZB with respect to the Proposed Final Plat of Subdivision and Proposed Final Plat of PUD, which representations are hereby found by the City Council to be material and upon which the City Council relies in approving the Proposed Final Plat of PUD and Proposed Final Plat of Subdivision; and

WHEREAS, the City Council has considered the written report of the PZB, the applicable standards for map amendments and planned unit developments set forth in the Zoning Ordinance, and the Community and Economic Development Staff Memorandum dated August 12, 2016, and has determined that it is in the best interest of the City and the public to approve the Proposed Final Plat of PUD in accordance with the provisions of this Ordinance;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Des Plaines, Cook County, Illinois, in the exercise of its home rule powers, as follows:

SECTION 1. RECITALS. The recitals set forth above are incorporated herein by reference and made a part hereof, the same constituting the factual basis for the approval of the Proposed Final Plat of PUD and Proposed Final Plat of Subdivision.

SECTION 2. LEGAL DESCRIPTION OF SUBJECT PROPERTY. The Subject Property is legally described as:

PARCEL 1:

THAT PART OF LOT "A" IN BENJAMIN CONSOLIDATION OF THAT PART OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF SECTION 18, TOWNSHIP 41

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NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING SOUTH OF THE CENTER LINE OF SEEGER'S ROAD AND NORTH OF THE NORTHERLY LINE OF THE CHICAGO AND NORTHWESTERN RAILWAY RIGHT OF WAY, ALSO ALL THAT PART OF THE NORTHWEST 1/4 OF SECTION 17, TOWNSHIP 41 NORTH, RANGE 12 EAST OF THE PRINCIPAL MERIDIAN, LYING NORTHERLY OF THE NORTHERLY LINE OF THE DES PLAINES VALLEY RAILWAY RIGHT OF WAY AND WESTERLY OF THE WESTERLY LINE OF THE ST. PAUL, MINNEAPOLIS AND SAULTE ST MARIE RAILROAD RIGHT OF WAY AND SOUTH OF THE CENTER OF ELK GROVE ROAD, RECORDED IN THE OFFICE OF THE RECORDER OF COOK COUNTY, ILLINOIS, ON APRIL 7, 1922 IN BOOK 169 OF PLATS PAGE 16, AS DOCUMENT 7455426 BOUNDED BY A LINE DESCRIBED AS FOLLOWS: TO WIT: COMMENCING AT THE INTERSECTION OF THE WEST LINE OF THE NORTHWEST 1/4 OF SAID SECTION 17 WITH THE NORTHEASTERLY LINE OF THE NORTHWEST HIGHWAY, BEING A LINE 66 FEET NORTHEASTERLY OF AND PARALLEL WITH THE NORTHEASTERLY LINE OF THE CHICAGO AND NORTHWESTERN RIGHT OF WAY; THENCE SOUTH 58 DEGREES 58 MINUTES 20 SECONDS EAST ALONG THE NORTHEASTERLY LINE OF THE NORTHWEST HIGHWAY 587.70 FEET; THENCE NORTH 31 DEGREES EAST DISTANCE OF 25 FEET; THENCE NORTH 31 DEGREES 03 MINUTES 40 SECONDS EAST A DISTANCE OF 150 FEET; THENCE SOUTH 58 DEGREES 58 MINUTES 20 SECONDS EAST A DISTANCE OF 25 FEET; THENCE NORTH 31 DEGREES 03 MINUTES 40 SECONDS EAST A DISTANCE OF 1015.48 FEET TO THE CENTER OF WELLER CREEK; THENCE NORTH 48 DEGREES 17 MINUTES 20 SECONDS WEST ALONG THE CENTER OF WELLER CREEK A DISTANCE OF 51.52 FEET; THENCE SOUTH 88 DEGREES 33 MINUTES 40 SECONDS WEST ALONG THE CENTER OF WELLER CREEK, A DISTANCE OF 666.38 FEET; THENCE SOUTH 31 DEGREES 03 MINUTES 40 SECONDS WEST, A DISTANCE OF 817.07 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.
 AREA OF PARCEL 1 = 615.352 SQ. FT. OR 14.1 ACRES

PARCEL 2:

THAT PART OF LOT "A IN BENJAMIN CONSOLIDATION OF PART OF THE NORTHWEST 1/4 OF SECTION 17 AND PART OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF SECTION 18, TOWNSHIP 41 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 7, 1922 AS DOCUMENT 745526, BOUNDED AND DESCRIBED AS FOLLOWS: COMMENCING AT THE INTERSECTION OF THE WEST LINE OF THE NORTHWEST 1/4 OF SAID SECTION 17 WITH THE NORTHEASTERLY LINE OF THE NORTHWEST HIGHWAY, BEING A LINE 66.0 FEET NORTHEASTERLY OF AND PARALLEL WITH THE NORTHEASTERLY LINE OF THE CHICAGO AND NORTHWESTERN RAILWAY RIGHT OF WAY; THENCE ALONG THE NORTHEASTERLY LINE OF THE NORTHWEST HIGHWAY, BEING A LINE

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SOUTH 58 DEGREES 57 MINUTES 00 SECONDS EAST, A DISTANCE 59.83 FEET FOR A POINT OF BEGINNING, SAID POINT BEING THE SOUTHWESTERLY CORNER OF THAT PART OF SAID LOT "A" CONVEYED BY THOMAS INDUSTRIES, INC., TO LITTLEFUSE, INC, BY DEED RECORDED AS DOCUMENT 18478096; THENCE NORTH 31 DEGREES 03 MINUTES 00 SECONDS EAST ALONG THE NORTHWESTERLY LINE OF SAID PROPERTY, A DISTANCE OF 816.97 FEET TO THE NORTHWESTERLY CORNER THEREOF; THENCE SOUTH 88 DEGREES 33 MINUTES 00 SECONDS WEST, A DISTANCE OF 165.65 FEET; THENCE SOUTH 82 DEGREES 15 MINUTES 00 SECONDS WEST, A DISTANCE OF 364.94 FEET; THENCE SOUTH 72 DEGREES 00 MINUTES 00 SECONDS WEST, A DISTANCE OF 457.54 FEET; THENCE SOUTH 31 DEGREES 03 MINUTES 00 SECONDS WEST, A DISTANCE OF 151.63 FEET TO A POINT ON THE SOUTHWESTERLY LINE OF LOT "A" BEING ALSO THE NORTHEASTERLY LINE OF THE CHICAGO AND NORTHWESTERN RAILWAY RIGHT OF WAY; THENCE ALONG THE SOUTHWESTERLY LINE OF LOT "A" BEING A LINE SOUTH 58 DEGREES 57 MINUTES 00 SECONDS EAST, A DISTANCE OF 619.31 FEET TO AN INTERSECTION WITH A LINE DRAWN AT RIGHT ANGLES TO THE SOUTHWESTERLY LINE OF SAID LOT "A" AND PASSING THROUGH THE POINT OF BEGINNING, THENCE NORTH 31 DEGREES 03 MINUTES 00 SECONDS EAST, ALONG THE LAST DESCRIBED LINE, A DISTANCE OF 66.0 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.
AREA OF PARCEL 2 = 330.439 SQ. FT. OR 7.60 ACRES

PINS: 09-18-215-004-0000, 09-17-100-038-0000, 09-17-100-039-0000.

Commonly known as 800 E. Northwest Highway, Des Plaines, Illinois.

SECTION 3. APPROVAL OF PROPOSED FINAL PLAT OF PUD AND

PERMITTED EXCEPTIONS. Subject to and contingent upon the conditions set forth in Section 5 of this Ordinance, the City Council hereby:

A. Approves the Proposed Final Plat of PUD, titled "Planned Unit Development Plat," consisting of one sheet, prepared by SpaceCo, Inc., and dated August 19, 2016, a copy of which is attached to and, by this reference, made a part of this Ordinance as **Exhibit A**. The City Council hereby directs the Zoning Administrator to accept the Proposed Final Plat of PUD, subject to and contingent upon the conditions set forth in Section 5 of this Ordinance.

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B. Approves, pursuant to 12-3-5.C of the Zoning Ordinance, an exception to permit a minimum lot area of 4,875 square feet, where a minimum lot area of 10,000 square feet is required by the bulk regulations of the R-4 District set forth in Section 12-7-2.G of the Zoning Ordinance.

C. Grants, pursuant to Section 12-3-5.D.3 of the Zoning Ordinance, a conditional use permit to the Petitioner for the development of the Proposed Development as a planned unit development in accordance with the Proposed Final Plat of PUD and the provisions of this Ordinance.

SECTION 4. APPROVAL OF PROPOSED FINAL PLAT OF SUBDIVISION.

Subject to, and contingent upon, the conditions, restrictions, limitations, and provisions set forth in Section 5 of this Ordinance, the City Council hereby approves the Proposed Final Plat of Subdivision titled "Final Plat of Subdivision Buckingham Place," consisting of two sheets, prepared by SpaceCo, Inc., and dated of July 3, 2016, copies of which are attached to and, by this reference, made a part of this Ordinance as **Exhibit B**. The City Council hereby authorizes and directs the Mayor and City Clerk to execute and seal, on behalf of the City, the Proposed Final Plat of Subdivision.

SECTION 5. CONDITIONS. Notwithstanding any use or development right that may be applicable or available pursuant to the provisions of the Zoning Ordinance and the Subdivision Ordinance, and any other rights that the Petitioner may have, the approvals granted in Sections 3 and 4 of this Ordinance are subject to and contingent upon compliance with each and all of the following conditions, restrictions, limitations, and provisions:

A. **Compliance with Law and Regulations.** The development, use, operation, and maintenance of the Proposed Development and the Subject Property must comply with all applicable City codes and ordinances, as the same have been or may be

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amended from time to time, except to the extent specifically provided otherwise in this Ordinance.

- B. Compliance with Plans. Except for minor changes and site work approved by the City Director of Community and Economic Development or Director of Public Works and Engineering (for matters within their respective permitting authorities) in accordance with all applicable City standards, the development, use, operation, and maintenance of the Proposed Development and the Subject Property must comply with the following plans and documents (collectively, "*Final Plans*"):

1. The plans titled "Site Improvement Plans for Buckingham Place," prepared by SpaceCo, Inc., consisting of thirty-two sheets, and with a latest revision date of May 16, 2016, copies of which are attached to and, by this reference, made a part of this Ordinance as **Exhibit C** ("*Site Improvement Plans*"). The Site Improvement Plans include sheets titled "Title Sheet," "Typical Sections and General Notes," "Overall Utility Plan," "Existing Conditions Plan," "Geometric Plan," "Grading Plan," "Utility Plan," "Plan & Profile," "Soil Erosion and Sediment Control Plan," "Specifications," "Detail," "MWRD WMO Overall Detention Exhibit," and "Additional MWRD Details."
2. The Character Elevations prepared by BSB Design, consisting of thirteen sheets, and dated April 6, 2015, copies of which are attached to and, by this reference, made a part of this Ordinance as **Exhibit D**.
3. The Buckingham Place Landscape Plan prepared by BSB Design, consisting of eight sheets, and dated April 6, 2015, with a latest revision

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date of July 10, 2015, copies of which are attached to and, by this reference, made a part of this Ordinance as **Exhibit E**.

C. Conditions Precedent to Building Permit. No building permits for the Proposed Development shall be issued unless and until the Petitioner complies with each of the following conditions:

1. Provide written proof of Final Engineering approval from the City of Des Plaines Public Works and Engineering Department.
2. Provide a Final Plat of PUD showing all proposed lot lines and building lines.
3. Provide proof of permit approval from MWRD WMO, IDOT, IEPA, and NPDES.
4. Include in the Site Improvement Plans LED street lighting specifications and photometrics with controller to the satisfaction of the Community and Economic Development Department.
5. Provide a traffic signage plan and pavement marking plan.
6. Provide a Grading and Drainage plan incorporating NAVD 88 vertical datum as well as an AutoCAD disk with Illinois State Plane coordinates to the satisfaction of the City's Director of Public Works and Engineering.
7. Include references in the Site Improvement Plans that trenches in the right of way must be flowable fill.
8. On page GN of the Site Improvement Plans, add mowing, street patching, and snow plowing to the Homeowners Association maintenance responsibilities.

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9. Indicate in the Site Improvement Plans that (a) all curb adjacent to the emergency access on Northwest Highway shall be B6-12 curb and (b) fire access gate shall be added with a DPF lock at the back of curb.
10. Provide a copy of a fully executed agreement to allow Des Plaines Police Department to enforce on-street parking restrictions within the Proposed Development.
11. Provide proof that the existing outlet to Weller Creek has been be televised and either repaired, if necessary, or replaced with RCP pipe. Remove or seal with concrete all other outlets.
12. Indicate in the Site Improvement Plans that all water services for townhome shall be Ty K copper.
13. Show the easement on sheet GM2 of the Site Improvement Plans for future roadway.
14. Provide a revised Landscape Plan to reflect the emergency access to Northwest Highway.
15. The Petitioner shall engage the services of a certified arborist and provide to the City a tree preservation action plan prior to issuance of building permits for the grading and construction of the site. The arborist shall analyze the proposed trees to be saved to ensure viability and determine proper procedures and practices to ensure minimal impact to the saved trees including, but not limited to, installation of protective fencing and root pruning. Should any of the preserved trees die, or need to be removed as a result of construction activities during, or within one year of the completion of construction, the

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Petitioner, or its successor shall replace the tree with three trees of similar species with no less than a 2.5 inch caliper. The Petitioner shall work with City staff to cluster trees as appropriate throughout the Northwest Highway frontage of the Subject Property.

16. Indicate on the Site Improvement Plans that a decorative vehicular barrier shall be provided along the top of the retaining wall adjacent to Weller Creek.

SECTION 5. RECORDATION; BINDING EFFECT. A copy of this Ordinance must be recorded in the Office of the Cook County Recorder of Deeds. This Ordinance and the privileges, obligations, and provisions contained herein run with the Subject Property and inure to the benefit of, and are binding upon, the Petitioner and its respective personal representatives, successors, and assigns, including, without limitation, subsequent purchasers of the Subject Property.

SECTION 6. FAILURE TO COMPLY WITH CONDITIONS.

A. Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with, or resists the enforcement of, any of the provisions of this Ordinance shall be fined not less than seventy five dollars (\$75.00) or more than seven hundred and fifty dollars (\$750.00) for each offense. Each and every day that a violation of this Ordinance is allowed to remain in effect shall constitute a complete and separate offense. In addition, the appropriate authorities of the City may take such other action as 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, firm or corporation 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.

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B. In the event that the Petitioner fails to develop or maintain the Subject Property in accordance with the plans submitted, the requirements of the Zoning Ordinance, the Subdivision Regulations, or the conditions set forth in Section 5 of this Ordinance, the approvals granted by Sections 3 and 4 of this Ordinance may be revoked after notice and hearing before the Zoning Administrator of the City, all in accordance with the procedures set forth in Section 12-4-7 of the Zoning Ordinance. In the event of revocation, the development and use of the Subject Property will be governed solely by the regulations of the R-4 District. Further, in the event of such revocation, the City Manager and the City's General Counsel are hereby authorized and directed to bring such zoning enforcement action as may be appropriate under the circumstances. The Petitioner acknowledges that public notices and hearings have been held with respect to the adoption of this Ordinance, has considered the possibility of the revocation provided for in this Section, and agrees not to challenge any such revocation on the grounds of any procedural infirmity or any denial of any procedural right, provided that the notice and hearing required by Section 12-4-7 of the Zoning Ordinance is provided to the Petitioner.

SECTION 7. AMENDMENTS. Any amendment to any provision of this Ordinance may be granted only pursuant to the procedures, and subject to the standards and limitations, provided in the Zoning Ordinance and the Subdivision Regulations.

SECTION 8. SEVERABILITY. If any paragraph, section, clause or provision of this Ordinance is held invalid, the remainder shall continue in full force and effect without affecting the validity of the remaining portions of the Ordinance.

SECTION 9. EFFECTIVE DATE. This Ordinance will be effective only upon the occurrence of the following events:

A. Passage by the City Council in the manner required by law;

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- B. Publication in pamphlet form in the manner required by law;
- C. The filing with the City Clerk by the Petitioner of an unconditional agreement and consent in substantially the form attached to and, by this reference, made a part of this Ordinance as **Exhibit F**, to accept and abide by each and all of the terms, conditions, and limitations set forth in this Ordinance, and demonstrating the Petitioner's consent to its recordation;
- D. The filing and approval of the Revised Access Plans and the Final Approval Documents in compliance with Subsection 4.D of this Ordinance; and
- E. At Petitioner's sole cost and expense, the recordation of this Ordinance, together with such exhibits as the City Clerk deems appropriate for recordation, with the office of the Recorder of Cook County.

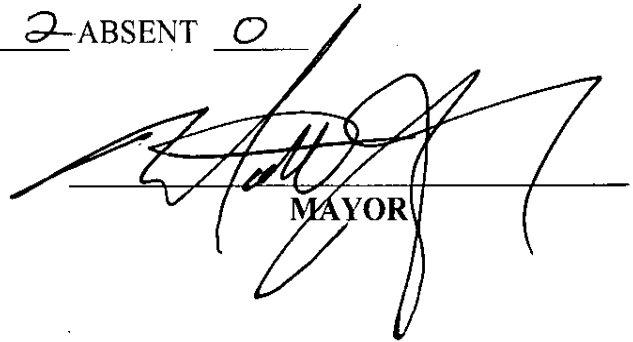
[SIGNATURE PAGE FOLLOWS]

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PASSED this 19th day of September, 2016.

APPROVED this 19th day of September, 2016.

VOTE: AYES 6 NAYS 2 ABSENT 0

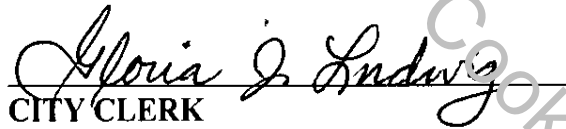

MAYOR

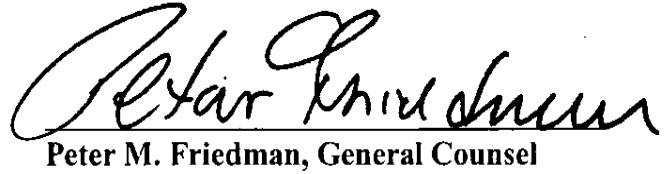
ATTEST:


CITY CLERK

Published in pamphlet form this 23rd day of September, 2016.

Approved as to form:


CITY CLERK


Peter M. Friedman, General Counsel

DP-Ordinance Approving Final PUD Plat and Plat of Subdivision Buckingham Place 800 Northwest Hwy

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CITY OF DES PLAINES

ORDINANCE NO. Z-23-16

AN ORDINANCE APPROVING A FINAL PLAT OF PLANNED UNIT DEVELOPMENT WITH A PERMITTED EXCEPTION AND A FINAL PLAT OF SUBDIVISION FOR THE PROPERTY LOCATED AT 800 NORTHWEST HIGHWAY, DES PLAINES, ILLINOIS (CASE #16-048-FPUD-FSUB)

ADOPTED ON SEPTEMBER 19, 2016
BY THE CITY COUNCIL
OF THE
CITY OF DES PLAINES

Published in pamphlet form by authority of the City Council of the City of Des Plaines, Cook County, Illinois this 21st day of September, 2016.

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EXHIBIT F

UNCONDITIONAL AGREEMENT AND CONSENT

TO: The City of Des Plaines, Illinois ("**City**");

WHEREAS, Buckingham Properties, Inc. d/b/a Dearborn Buckingham ("**Petitioner**"), applied to the City of Des Plaines for the approval of: (i) a final plat of planned unit development ("**Final Plat of PUD**") of the property commonly known as 800 Northwest Highway, Des Plaines, Illinois ("**Subject Property**"), including a certain proposed exception within the proposed planned unit development; and (ii) a final plat of subdivision of the Subject Property ("**Final Plat of Subdivision**"); and

WHEREAS, the Subject Property is owned by Four Peaks, LLC ("**Owner**"); and

WHEREAS, Ordinance No. Z-23-16 adopted by the City Council of the City of Des Plaines on 9/19 2016 ("**Ordinance**"), grants approval of the Final Plat of PUD and Final Plat of Subdivision, subject to certain conditions; and

WHEREAS, Petitioner and Owner desire to evidence to the City their unconditional agreement and consent to accept and abide by each of the terms, conditions, and limitations set forth in the Ordinance, and the Owner desires to evidence its consent to recording the Ordinance against the Subject Property;

NOW, THEREFORE, Petitioner does hereby agree and covenant as follows:

1. Petitioner and Owner shall, and do hereby, unconditionally agree to, accept, consent to and abide by all of the terms, conditions, restrictions, and provisions of that certain Ordinance No. Z-23-16, adopted by the City Council on 9/19, 2016.
2. Petitioner and Owner acknowledge and agree that the City is not and shall not be, in any way, liable for any damages or injuries that may be sustained as a result of the City's review and approval of any plans for the Subject Property, or the issuance of any permits for the use and development of the Subject Property, and that the City's review and approval of any such plans and issuance of any such permits does not, and shall not, in any way, be deemed to insure Petitioner or Owner against damage or injury of any kind and at any time.
3. Petitioner and Owner acknowledge that the 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 any denial of any procedural right, provided that the procedures required by Section 12-4-7 of the City's Zoning Ordinance are followed.

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4. Petitioner and Owner agree to and do hereby hold harmless and indemnify the City, the City's corporate authorities, and all City 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 (a) the City's review and approval of any plans and issuance of any permits, (b) the procedures followed in connection with the adoption of the Ordinance, (c) the development, construction, maintenance, and use of the Subject Property, and (d) the performance by Petitioner and Owner of their obligations under this Unconditional Agreement and Consent.

5. Petitioner and Owner shall, and do hereby agree to, pay all expenses incurred by the City in defending itself with regard to any and all of the claims mentioned in this Unconditional Agreement and Consent. These expenses shall include all out-of-pocket expenses, such as attorneys' and experts' fees, and shall also include the reasonable value of any services rendered by any employees of the City.

ATTEST:

BUCKINGHAM PROPERTIES, INC.
d/b/a **DEARBORN BUCKINGHAM**

By: *Jill Ramion*

By: *Christopher Coleman*

SUBSCRIBED and SWORN to
before me this 5TH day of
JANUARY, 2017, 2016.

Jill Ramion
Notary Public



ATTEST:

FOUR PEAKS, LLC

By: *Julie Kougas*

By: *Mark Papanicolaou*

SUBSCRIBED and SWORN to
before me this 4th day of
January, 2016. 2017

Julie Kougas
Notary Public

