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1998-08-17 16:37:30
Cook County Recorder 39.00

ORDINANCE NO. 98-6

BOX 337

AN ORDINANCE GRANTING VARIATIONS AND
A SPECIAL PERMIT FOR OUTDOOR SEATING
ACCESSORY TO A PERMITTED EATING PLACE
AT 1819 LAKE COOK ROAD

(P.F. CHANG'S CHINA BISTRO)
(PLAN COMMISSION DOCKET NO. 97-24A/C)

Passed by the Board of Trustees, February 10, 1998

Printed and Published, February 11, 1998

Printed and Published in Pamphlet Form
by Authority of the
President and Board of Trustees

VILLAGE OF NORTHBROOK
COOK COUNTY, ILLINOIS

I hereby certify that this document
was properly published on the date
stated above.

/s/ Lona N. Louis
Village Clerk

I hereby certify this to be a true and exact copy of the
original.

8/12/98
Date

Lona N. Louis
Village Clerk

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ORDINANCE NO. 98-6

BE IT ORDAINED by the President and Board of Trustees of the Village of Northbrook, County of Cook and State of Illinois THAT:

AN ORDINANCE GRANTING VARIATIONS AND
A SPECIAL PERMIT FOR OUTDOOR SEATING
ACCESSORY TO A PERMITTED EATING PLACE
AT 1819 LAKE COOK ROAD

(P.F. CHANG'S CHINA BISTRO)
(PLAN COMMISSION DOCKET NO. 97-24/VC)

be and is hereby adopted as follows:

Section 1. BACKGROUND.

Westcoast Estates, Ltd., a partnership ("Westcoast"), is the record owner of certain real property located at 1819 Lake Cook Road in the Village of Northbrook (the "Subject Property"). P.F. Chang's China Bistro, a Delaware corporation ("P.F. Chang's"), is the lessee of the Subject Property and proposes to construct and operate a restaurant facility thereon. Westcoast and P.F. Chang's (collectively the "Applicant") have requested the following relief: (i) variations of the applicable yard and setback regulations to allow the construction and operation of the proposed restaurant on the Subject Property; and (ii) a special permit to allow an outdoor seating area accessory to the proposed restaurant on the Subject Property. The operation of the proposed outdoor seating area is classified in the Northbrook Zoning Code (1988), as amended from time to time (the "Zoning Code"), as Outdoor Seating Accessory to a Permitted Eating Place (Village S.I.C. Code No. 5812.03).

Section 2. DESCRIPTION OF SUBJECT PROPERTY.

The Subject Property is commonly known as 1819 Lake Cook Road and is legally described in Exhibit A attached to and, by this reference, made a part of this Ordinance. The Subject Property is located within the C-4 Regional Shopping District.

Section 3. PUBLIC HEARING.

A public hearing to consider the application for the variations and special permit requested for the Subject Property in the C-4 Regional Shopping District was duly advertised on November 13, 1997 in the Northbrook Star and publicly heard by the Northbrook Plan Commission on December 2, 1997 and continued to January 6, 1998. The Plan Commission recommended approval of the application on February 3, 1998 by adoption of Resolution No. 98-PC-3.

Section 4. VARIATIONS.

Subject to and contingent upon the conditions, restrictions, and provisions set forth in Section 6 of this Ordinance, the following yard and setback variations for the Subject Property shall be, and are hereby, granted for the Subject Property in accordance with and pursuant to Section 11-503 of the Zoning Code and the home rule powers of the Village of Northbrook:

- A. The required front setback of 150 feet is reduced to 60 feet;
- B. The required corner side setback of 150 feet is reduced to 45 feet;
- C. The required corner side yard of 70 feet is reduced to 9.5 feet;
- D. The required interior side setback of 150 feet is reduced to 10 feet;
- E. The required interior side yard of 30 feet is reduced to 5 feet 1 inch;
- F. The required rear setback of 150 feet is reduced to 105 feet; and
- G. The required rear yard of 150 feet is reduced to 2 feet.

Section 5 SPECIAL PERMIT FOR OUTDOOR SEATING ACCESSORY TO A PERMITTED EATING PLACE.

Subject to and contingent upon the conditions, restrictions, and provisions set forth in Section 6 of this Ordinance, a special permit to allow Outdoor Seating Accessory to a Permitted Eating Place (Village S.I.C. Code No. 5812.03) on the Subject Property is hereby granted to the Applicant in accordance with and pursuant to Section 11-602 of the Zoning Code and the home rule powers of the Village of Northbrook.

Section 6. VARIATIONS AND SPECIAL PERMIT CONDITIONS.

The variations granted in Section 4 of this Ordinance and the special permit granted in Section 5 of this Ordinance shall be, and are hereby, expressly subject to and contingent upon each of the following conditions, restrictions, and provisions:

A. Compliance with Plans. The development, use, and maintenance of the Subject Property shall be only in strict accordance with the following documents and plans, except for minor changes and site work approved by the Director of Development or the Village Engineer (for matters within their respective permitting authorities) in accordance with all applicable Village standards:

- i. Site Plan, prepared by Aria Group Architects, Inc., with latest revision date of December 19, 1997, attached as Exhibit B and, by this reference, made a part of this Ordinance; and
- ii. Interior and Outdoor Seating Floor Plan, prepared by Aria Group Architects, Inc., with latest revision date of December 19, 1997, attached as Exhibit C and, by this reference, made a part of this Ordinance; and
- iii. Exterior Elevations, prepared by Aria Group Architects, Inc., consisting of two pages, with latest revision date of December 19, 1997, attached as Exhibit D and, by this reference, made a part of this Ordinance; and
- iv. Overall Parking Plan, prepared by Gewalt-Hamilton Associates, Inc., with latest revision date of November 7, 1997, attached as Exhibit E and, by this reference, made a part of this Ordinance; and

- v. The Final Engineering Plan (as defined in Subsection 6B of this Ordinance); and
- vi. The Final Landscape Plan (as defined in Subsection 6C of this Ordinance).

B. Final Engineering Plans. As of the date of adoption of this Ordinance, the Applicant has submitted, and the Village Engineer has approved, that certain preliminary engineering plan for the Subject Property, prepared by Gowalt-Hamilton Associates, Inc., with latest revision date of December 11, 1997, attached hereto as Exhibit F (the "Preliminary Engineering Plan"). The Applicant shall submit to the Village Engineer for his review, acceptance, and approval, a final engineering plan (the "Final Engineering Plan") for the Subject Property in substantial conformance with the Preliminary Engineering Plan and all applicable laws, codes, ordinances, rules, and regulations, including, without limitation, the Village Standards and Specifications for Public and Private Improvements (1990), as amended from time to time.

C. Final Landscape Plans. As of the date of adoption of this Ordinance, the Applicant has submitted, and the Village Director of Public Works has approved, that certain preliminary landscape plan for the Subject Property, prepared by Douglas Hill Associates, Inc., with latest revision date of December 15, 1997, attached hereto as Exhibit G (the "Preliminary Landscape Plan"). The Applicant shall submit to the Village Director of Public Works for his review, acceptance, and approval, a final landscape plan (the "Final Landscape Plan") for the Subject Property in substantial conformance with the Preliminary Landscape Plan and all applicable laws, codes, ordinances, rules, and regulations.

D. Location of Outdoor Seating. The outdoor seating approved in Section 5 of this Ordinance shall be located only in that specific area designated as "Patio" (the "Outdoor Seating Area") as depicted on the Interior and Outdoor Seating Floor Plan (Exhibit C).

E. Shared Parking Agreement. The Applicant shall enter into and record a shared parking agreement with the owner(s) of record of the Northbrook Court shopping center, in conformance with the Overall Parking Plan (Exhibit E) and in form and substance acceptable to, and approved by, the Village Attorney.

F. Alcoholic Beverages. The service of alcoholic beverages in the Outdoor Seating Area shall be permitted only where (i) the customer being served is seated at a table and (ii) such service is incidental to the sale and service of complete meals. The term "complete meal" as used in this Ordinance shall mean a variety of foods, not susceptible to consumption without utensils, and not conveniently consumed while standing. The service of alcoholic beverages at bars or counters shall be prohibited in the Outdoor Seating Area.

G. Pedestrian Flow. Adequate area for pedestrian flow through the Outdoor Seating Area shall be maintained at all times, in conformance with the Interior and Outdoor Seating Floor Plan (Exhibit C).

H. Emergency Ingress and Egress. Emergency ingress and egress and access to fire apparatus in the Outdoor Seating Area shall be subject to the review and approval of the Village Fire Chief.

I. Maintenance. The Outdoor Seating Area and surrounding property shall be maintained in a clean and sanitary condition and shall be kept from debris at all times.

J. Food Storage. Condiment and other food storage containers shall be lidded when not in use. Perishable condiments and other food items shall not be stored in the Outdoor Seating Area.

K. Tableware. The tableware utilized in the Outdoor Seating Area shall be the same china, napkins, flatware, and other tableware used in the restaurant.

L. Trash Containers. All trash containers located in the Outdoor Seating Area shall be lidded and all refuse shall be regularly removed. Soiled linens, tablecloths, and napkins shall not be stored in the Outdoor Seating Area at any time.

M. Licenses and Permits. The Applicant shall obtain and maintain all licenses, certifications, permits, and other approvals required for the legal operation of the Outdoor Seating Area.

N. Compliance with Codes. The Applicant shall comply with all other requirements applicable to Outdoor Seating Accessory to a Permitted Eating Place in the Zoning Code.

Section 7. FAILURE TO COMPLY WITH CONDITIONS.

Upon the failure or refusal of the Applicant to comply with any or all of the conditions, restrictions or provisions of this Ordinance, the variations granted in Section 4 of this Ordinance and the special permit granted in Section 5 of this Ordinance shall, at the sole discretion of the Village Board of Trustees, by ordinance duly adopted, be revoked and become null and void; provided, however, that the Village Board of Trustees may not so revoke the variations and special permit unless it shall first provide 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 Board of Trustees. In the event of revocation, the development and use of the Subject Property shall be governed solely by the regulations of the C-4 Regional Shopping District, as the same may, from time to time, be amended. Further, in the event of such revocation of the variations and special permit, the Village Manager and Village Attorney are hereby authorized and directed to bring such zoning enforcement action as may be appropriate under the circumstances. The Applicant acknowledges that public notices have been given and public 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 to the Applicant required by this Section is given.

Section 8. AMENDMENT TO VARIATIONS AND SPECIAL PERMIT

Any additional amendment to the variations granted in Section 4 of this Ordinance and the special permit granted in Section 5 of this Ordinance that may be requested by 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 Code.

Section 9. BINDING EFFECT, NON-TRANSFERABILITY.

The special permit granted in Section 5 of this Ordinance is for the sole benefit of, and shall inure to the benefit of, and is and shall be binding on, the Applicant, except as otherwise expressly provided in this Ordinance. Nothing in this Ordinance shall be deemed to allow such special permit to be transferred to any person or entity other than the Applicant without a new application for approval for any person or entity other than the Applicant.

Section 10. EFFECTIVE DATE.

following events:

A. This Ordinance shall be effective only upon the occurrence of all of the

- i. passage by the Board of Trustees of the Village of Northbrook by a majority vote in the manner required by law;
- ii. publication in pamphlet form in the manner required by law; and
- iii. the filing by the Applicant with the Village Clerk of an unconditional agreement and consent to accept and abide by each and all of the terms, conditions, and limitations set forth in this Ordinance. Said unconditional agreement and consent shall be in the form of Exhibit H, attached to and made a part of this Ordinance by this reference; and
- iv. recordation of this Ordinance, together with such exhibits as the Village Clerk shall deem appropriate for recordation, with the Cook County Recorder of Deeds. The Applicant shall bear the full cost of such recordation.

B. In the event that the Applicant does not file with the Village Clerk a fully executed copy of the unconditional agreement and consent referenced in Section 10.A.iii of this Ordinance within 90 days of the date of passage of this Ordinance by the Corporate Authorities, the Corporate Authorities shall have the right, in their sole discretion, to declare this Ordinance null and void and of no force or effect.

PASSED: This 10th day of February, 1998.

AYES: (6) Trustees Jaeger, Frum, Karngardt, Buehler, Donowald and Meek

NAYS: (0)

ABSENT: (0)

ABSTAIN: (0)

/s/ Mark W. Damsch
Village President

ATTEST:

/s/ Lona N. Louis

Village Clerk

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EXHIBIT A

Legal Description of the Subject Property

LOT 2 IN NORTHBROOK COURT SUBDIVISION NUMBER 1, BEING A SUBDIVISION OF PART OF THE NORTHWEST 1/4 OF SECTION 3, TOWNSHIP 42 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 7, 1976 AS DOCUMENT NUMBER 23738085.

Commonly known as: 1819 Lake Cook Road, Northbrook, Illinois
Permanent Index No.: 04-03-101-016-0000

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LIST OF EXHIBITS

- EXHIBIT A: Legal Description of the Subject Property - attached
- EXHIBIT B: Site Plan)
- EXHIBIT C: Interior and Outdoor Seating Floor Plan)
- EXHIBIT D: Exterior Elevations)
- EXHIBIT E: Overall Parking Plan) On file in the office of
- EXHIBIT F: Preliminary Engineering Plan) the Village Clerk, 1225
- EXHIBIT G: Preliminary Landscape Plan) Cedar Lane, Northbrook, IL
- EXHIBIT H: Unconditional Agreement and Consent - attached) 60062

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EXHIBIT H

TO: Unconditional Agreement and Consent of Applicant
The Village of Northbrook, Illinois (the "Village");

WHEREAS, Westcoast Estates, Ltd. and P.F. Chang's China Bistro (collectively the "Applicant") have applied for (i) variations of the applicable yard and setback requirements and (ii) a special permit to allow Outdoor Seating Accessory to a Permitted Eating Place at 1819 Lake Cook Road in the Village of Northbrook (the "Subject Property"); and

WHEREAS, Ordinance No. 98-6, adopted by the President and Board of Trustees of the Village of Northbrook on February 10, 1998 (the "Ordinance"), grants approval of such variations and special permit, subject to certain conditions; and

WHEREAS, the Applicant desires to evidence to the Village its unconditional agreement and consent to accept and abide by each of the terms, conditions, and limitations set forth in said Ordinance;

NOW THEREFORE, the Applicant does hereby agree and covenant as follows:

1. The Applicant shall and does hereby unconditionally agree to, accept, consent to and abide by all of the terms, conditions, restrictions, and provisions of that certain Village Ordinance No. 98-6 adopted by the Village Board of Trustees on February 10, 1998 (the "Ordinance").
2. The Applicant acknowledges and agrees that the Village is not and shall not be, in any way, liable for any damages or injuries that may be sustained as a result of the Village'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 Village'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 the Applicant against damage or injury of any kind and at any time.
3. The Applicant acknowledges that the public notices and hearings have been properly given and held with respect to the adoption of the Ordinance, and considered the possibility of the revocation provided for in the Ordinance, 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 to the Applicant required by Section 7 of the Ordinance is given.
4. The Applicant agrees to and does hereby 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 (a) the Village'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 the Applicant of its obligations under this Unconditional Consent and Agreement.

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5. The Applicant shall, and does hereby agree to, pay all expenses incurred by the Village in defending itself with regard to any and all of the claims mentioned in this Unconditional Consent and Agreement. 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 Village.

WESTCOAST ESTATES, a California General Partnership
by: GROSVENOR INTERNATIONAL (Westcoast Estates) LIMITED, a California corporation, its General Partner

ATTEST:

By: _____
Its: _____

By: [Signature]
Its: DIRECTOR
By: [Signature]
Its: SENIOR Vice President

SUBSCRIBED and SWORN to before me this 13th day of APRIL, 1998.

Notary Public DISTRICT OF COLUMBIA
[Signature]
GEOFFREY R. NESBITT
MY COMMISSION EXPIRES JANUARY 31, 1999

ATTEST:

P.F. CHANG'S CHINA BISTRO

By: _____
Its: _____

By: [Signature]
Its: [Signature]

SUBSCRIBED and SWORN to before me this 19th day of April, 1998.
Notary Public State of Arizona
Maricopa County

[Signature]
Kim KUHARSKA
My commission expires: 7/26/99



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