

RK123, LLC

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September 15, 2019

Mr. Eric Waggoner
500 W. Winchester Road, Unit 101
Libertyville, IL 60448-1331

Dear Mr. Waggoner:

On October 9, 2012 the County Board approved a Conditional Use Permit for a Planned Development of our property, which is located at the southeast corner of Rt. 12 and Old McHenry Road.

In taking that action the County Board did something very creative and unusual. By employing a technique often referred to as form-based zoning, the plan that was approved was designed to be a guide so that a future developer coming forward would understand the desires of the County with more force and specificity than zoning code provisions could ever accomplish.

The plan that was approved is really a very extensive description of the strict parameters under which a development of our property can be done. It is specific in all aspects of the quantitative requirements of the zoning code as well as setting standards for the qualitative features that are desired. These are set through the text of the approvals as well as by the use of a Pattern Book, a tool commonly used in form-based zoning.

The County Code, under Section 151.050 (H), contains provisions calling for the lapse of approval if a conditional use is not "established" (permit issued) within a specified time. This section also provides for extensions of approval under certain conditions. But this does not cover the use of form-based zoning in which a plan is approved in anticipation of a future development proposal coming forward with the guidance of the CUP/PD. This section assumes only the normal situation - a specific development having been approved with a full and complete plan almost ready for permits.

We are now requesting an extension of time to "establish" our approved conditional use. In connection with our request you have asked us to give an overview of our efforts to market the property as well as to share what we have learned from those efforts.

As a general observation, we have found that there is an improving level of interest on the part of developers in starting new commercial projects in suburban Chicago. This is a definite improvement over the historically bad market conditions of just a few years ago but it is also fair to say that such interest is tentative, probably due to a slow recovery of the overall economy.

Developers and tenants of retail commercial developments containing stores, in particular, have the added task of trying to solve the problem presented by two desires of the shopping public – the desire to shop on the internet and the desire to see or try-on goods in a physical store. We believe that the solution has not been found yet, but the people we deal with seem confident that it is on the horizon

Our efforts to market the property can be best described by highlighting the various stages of activity - each distinct from the other and each with its own timeline - that describe a sequence beginning with first putting the property on the market and ending with the start of construction.

What follows is an outline of our efforts to date and the activities that are ahead of us. It is important to make clear that each stage depends on the successful conclusion of the stage before it in the sequence and that it is not possible to accurately predict the time that each stage will require.

We are actively engaged in the first stage - marketing the property

- The presentation of the property to the market has been customized to the nature of the property; that is to say it is a large property that must meet high standards for development. In this case we have targeted developers that are currently active in building non-residential projects. This has also included national developers who have built projects elsewhere that may do well here.
- A second effort that we have undertaken early is to be sure that all brokers that are active in the sale of commercial properties of a similar scale are aware of the availability of our land.
- Both developers and brokers are informed about the very unique and positive CUP that has greatly reduced the time and risks of plan approvals by making the County's standards for the development clear.
- We have made, and will continue to make, adjustments in our marketing effort based on feedback to date.

The second stage will begin when a potential buyer is seriously interested.

- Serious prospects begin their due diligence before a contract is negotiated in order to decide whether to make a substantial commitment of time and money to a project.
- In this stage a prospect will conduct an initial review of various matters including zoning, governmental entitlements and obligations, utility issues, traffic and likely road improvement requirements, etc.
- The buyer invests substantial amounts of money at this stage including fees for legal, engineering and architectural services
- The overall objective of the prospect is to become comfortable enough to move to next stage.

- Early negotiations on price and terms occur in this stage as well as a detailed review of the CUP.
- Early negotiations by the buyer with tenants begin in this stage as well.

A third stage usually starts with a signed contract with a developer

- Shortly before or after this stage a CUP/PD, following a normal sequence, is reviewed and approved by the County.
- Negotiations with tenants are finalized.
- Architectural and engineering plans are finished.
- Bids are obtained and negotiated.
- And finally, permits are issued and the project is "established".

A Fourth stage begins with the start of construction.

We understand the intent and the sound purpose of having a time limit to "establish" (permits issued) a conditional use in your ordinance but remind you that our situation is outside the usual. We strongly believe that the County has wisely used the form-based zoning approach in this case and may want to modify Section 151.050 (H) to cover such instances in the future.

We anticipated the issue of timing back in 2011 when we submitted our application for a CUP/PD to the County. On the second page of the narrative description of the project in that application we wrote the following:

One final thought about the nature of the petitioner's proposal: Petitioner has presented a concept plan for development. The precise location of buildings and parking and the mix and range of uses/tenants is not yet articulated at this PUD preliminary plan stage. That will come at the final plan stage. Petitioner is currently only seeking at this point the assurance that the development concept is acceptable given the various parameters, including the Pattern Book several dozen pages in length, which the petitioner will self-impose on the development. Petitioner feels this proposal is superior to all others before it, and is proud to bring it forward for your consideration.

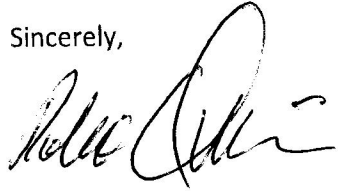
We are asking for an extension to "establish" the CUP of two years. It may take longer since some steps in the stages we have described above can occur rather quickly, but others (negotiations of contracts or leases, engineering plans, architectural plans, preliminary reviews by the County, etc.) have time requirements that are difficult to compress. These steps must also follow a sequence that requires earlier steps to be complete before moving to the next. For that reason we think we all should understand that it may take longer and that, if it does, we will come to the County again with a report of progress and another request.

We will continue our efforts to find a developer to realize the aspirations of Lake County, our

neighbors and ourselves for a high quality development on one of the most desirable commercial sites available in the region.

Thank you for your attention to our request.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert Dimucci". The signature is fluid and cursive, with a large loop at the end.

Robert Dimucci
Manager