

**ORDINANCE NUMBER 12- 88**

**ORDINANCE GRANTING A REZONING OF A 25.8 +/- ACRE PROPERTY LOCATED ON THE NORTH SIDE OF ROUTE 72, EAST OF ROUTE 25 (TERRA BUSINESS PARK EXPANSION) FROM R-1 TO M-1, APPROVING A PLANNED UNIT DEVELOPMENT PRELIMINARY DEVELOPMENT PLAN WITH MODIFICATIONS AND VARIANCES IN THE VILLAGE OF EAST DUNDEE, ILLINOIS**

**WHEREAS**, the Village of East Dundee is a home rule unit of local government under and pursuant to Section 6 of Article VII of the Constitution of the State of Illinois, has the authority to exercise any power and perform any function pertaining to its government and affairs, including but not limited to the power to regulate for the protection of the public health, safety, morals, and welfare; and

**WHEREAS**, Joseph L. Palumbo, Manager of Pal Land LLC, has demonstrated that he is the proper agent for property legally described in Exhibit A known as Terra Business Park, for the purpose of applying for a Planned Unit Development in the Village of East Dundee; and

**WHEREAS**, the property described in Exhibit A is zoned and classified as R-1 under the provisions of the Zoning Ordinances of the Village of East Dundee; and

**WHEREAS**, the Village of East Dundee has a zoning ordinance that provides for Planned Unit Developments pursuant to Section 157.245 et al.; and

**WHEREAS**, it is in the best interest of the residents of the Village of East Dundee to provide for a rezoning and approve a PUD for the subject property; and

**WHEREAS**, the applicant has submitted an application for approval of rezoning a PUD with modifications; and

**WHEREAS**, Joseph L. Palumbo, Manager of Pal Land LLC, in regard to property commonly known as Terra Business Park and legally described in Exhibit A has properly petitioned the Planning and Zoning Commission of the Village of East Dundee for approval of:

- 1) A rezoning of the property to M-1;
- 2) Approval of a Preliminary Planned Unit Development Plan with the following modifications in accordance with Section 157.241(E):

- A) A modification to permit a full range of light industrial and commercial uses throughout the property. The proposed use list includes all uses permitted in the M-1 and B-2 districts, as well as motor truck terminals, gas stations and retail, and automotive retail and services;
  - B) A modification to permit a 40 foot minimum front setback and 20 foot minimum setbacks on the sides and rear of all lots to be created on the subject property;
  - C) A modification to permit parking in the required front yard setback with a setback of ten feet;
  - D) A modification to permit the signage standards applicable to business districts (as provided in Chapter 156 of the Village Code) apply to all lots to be created on the subject property;
  - E) A modification to have the standards for freestanding signs included in Section 156.04(E) of the Village Code apply to all lots to be created on the subject property with the provision that electronic signs shall be limited to specific types of businesses/developments as described in said Section.
- 3) A variance to Section 157.241(I)(9) of the East Dundee Zoning Chapter to permit the landscape standards of Section 158.04(D) of the Village Code to apply to all lots to be created on the property in lieu of the landscape coverage standards contained in captioned Section.
- 4) A variance from Section 157.241(J)(2) to permit the minimum open space area for the subject property to be reduced to 5% in lieu of the 10% required by the captioned Section.

**WHEREAS**, upon due notice and after public hearing held on October 18, 2012 by the Planning and Zoning Commission of the Village of East Dundee and pursuant to East Dundee's Zoning Ordinance, said Commission has approved their Findings of Fact and Recommendation; a copy of said Findings of Fact and Recommendation are attached hereto as Exhibit B; and

**WHEREAS**, the corporate authorities of the Village of East Dundee have considered this matter at public hearings and find pursuant to the relevant portions of East Dundee' Zoning

Ordinance, that the request for a Planned Unit Development is deemed necessary for the public health, safety and welfare at the location specified above, and is so designed, located and proposed so as not to cause any substantial injury to the value of other property in the neighborhood in which it is located; and

**WHEREAS**, pursuant to Division 13 of Article 2 of the Illinois Municipal Code and the provisions of East Dundee ordinances, upon public notice duly published in a newspaper of general circulation in the Village of East Dundee and upon notice sent to adjacent landowners pursuant to law, public hearing was conducted before the Planning and Zoning Commission on October 18, 2012; and

**WHEREAS**, based upon the evidence adduced at said hearings and in their application, the petitioner has entered into the record evidence and Findings of Fact that address the conditions in the East Dundee Zoning Ordinance; and

**WHEREAS**, pursuant to the provisions of the Village of East Dundee's Zoning Ordinance, the corporate authorities have determined that the rezoning from R-1 to M-1 and approval of the Planned Unit Development preliminary plan, including modifications and variances, shall be issued or granted as hereinafter set forth.

**NOW THEREFORE BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF EAST DUNDEE, COOK AND KANE COUNTIES, ILLINOIS, AS FOLLOWS:**

**Section One.** That the corporate authorities do hereby incorporate the foregoing WHEREAS clauses into this ordinance as though fully set forth herein, thereby making the findings as hereinabove set forth.

**Section Two.** The corporate authorities hereby approve, adopt and incorporate the Findings of Fact and Recommendation of the Planning and Zoning Commission as set forth in Exhibit B.

**Section Three.** That pursuant to East Dundee's Zoning Ordinance, the change in zoning classification for the property legally described in Exhibit A from R-1 to M-1 is hereby granted.

**Section Four.** Pursuant to East Dundee's Zoning Ordinance, the Preliminary Planned Unit Development Plan with the modifications as set forth above and in the Findings of Facts and Recommendation of the Planning and Zoning Commission is hereby granted.

**Section Five.** The request for variance from Section 157.241(I)(9) as set forth above and in the Findings of Fact, is hereby granted.

**Section Six.** The request for variance from Section 157.241(J)(2) as set forth above and in the Findings of Fact, is hereby granted.

**Section Seven.** This ordinance shall be valid for one year from its adoption and shall take effect immediately upon this issuance of the first building permit for the site. If a building permit is not issued for the property within twelve months of adoption of this ordinance, this ordinance and all related plans and specifications for the Terra Business Park expansion.

**Section Eight.** The village clerk is authorized and directed to amend all pertinent records of the Village of East Dundee to show the approvals granted hereunder.

**Section Nine. Severability.** If any section, paragraph or provision of this ordinance shall be held to be invalid or unenforceable for any reason, the validity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this ordinance.

**Section Ten. Repeal.** All ordinances, resolutions, motions or parts thereof in conflict herewith shall be and the same are hereby repealed.

**Section Eleven. Publication.** This ordinance shall be in full force and effect forthwith upon its adoption, approval and publication in pamphlet form as provided by law.

**Section Twelve. Effective Date.** Passed on the 14 day of November 2012, according to the following roll call vote.

AYES:

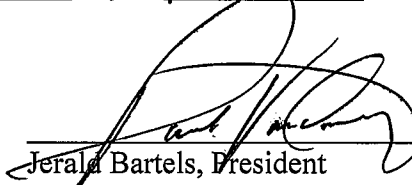
Trustees Lynam, Skellicorn, Miller, VanOstenbridge and President Bartels

NAYES: Ø

ABSENT:

Trustees Ruffolo and Gorman

Approved by me this 14 day of November, 2012.

  
\_\_\_\_\_  
Jerald Bartels, President

Published in pamphlet form this 16 day of November, 2012, under the authority of the President and Board of Trustees.

**ATTEST:**

  
~~Jennifer Rehberg, Village Clerk~~  
Heather Maientsch

Recorded in the Village Records on November 16, 2012.

**VILLAGE OF EAST DUNDEE, KANE COUNTY, ILLINOIS  
PLANNING AND ZONING COMMISSION**

Application of PAL Land, LLC (Joseph L. Palumbo, Manager), as )  
owner, for approval of the following for a 25.8<sup>±</sup>-acre property )  
located on the north side of Route 72, east of Route 25 (Terra )  
Business Park Expansion): a rezoning from R-1 to M-1 and a ) P&Z File No. 12-10-03  
planned unit development preliminary development plan, including )  
five requests for modifications and two requests for variations. )

**To:** The Honorable Gerald Bartels, President  
And Board of Trustees

**REPORT OF FINDINGS OF FACT AND RECOMMENDATION**

**WHEREAS**, the Applicant, PAL Land, LLC (Joseph L. Palumbo, Manager),  
as owner (the "Applicant"), has applied for:

- A rezoning from R-1 to M-1;
- A planned unit development preliminary development plan including five requests for modifications and two requests for variations.

for a 28.5<sup>±</sup>-acre property (Terra Business Park Expansion) generally located on the north side of Route 72, east of Route 25 in the Village of East Dundee, Illinois ("Subject Property"); and

**WHEREAS**, the Planning and Zoning Commission of the Village of East Dundee conducted a public hearing to consider the application on October 18, 2012; and

**WHEREAS**, notice of the hearing on the application was duly published as required by law; and

**WHEREAS**, various exhibits prepared by the Applicant describing the Project in more detail were presented and entered into the record at the public hearing along with the testimony and evidence presented by others, all of which are set forth in the minutes, transcript, and exhibits contained in P&Z File No. 12-10-03 maintained by the Village Clerk's office (the "Project File"); and

**WHEREAS**, Sections 157.223 and 157.245 of the Village Code provide that applications for rezonings and preliminary development plans, respectively, may be granted by the Board of Trustees after a public hearing before the Planning and Zoning Commission and receipt of a report of the Planning and Zoning Commission's findings and recommendations.

**NOW THEREFORE**, the Village of East Dundee Planning and Zoning Commission makes the following findings of fact and recommendations relative to the subject application for a rezoning and preliminary development plan, including five requests for modifications and two requests for variations:

**SECTION 1.** The Recitals set forth above constitute a material part of this Findings of Fact and Recommendation Report as if set forth in their entirety in this Section 1.

**SECTION 2.** All exhibits, testimony and evidence presented at the public hearing and contained in the Project File also are incorporated herein by reference.

**SECTION 3.** Consistent with all of the exhibits in the Project File, the proposed project (the "Project") is generally described as a 28.5<sup>±</sup>-acre parcel consisting of a mix of commercial and light industrial uses that will serve as an extension to the existing Terra Business Park, which is located immediately to the south and was granted the same approvals by the Village in 2007 as those now being requested for the Project.

**SECTION 4.** Section 157.223 of the Village Code provides procedures and requirements for amendments to the zoning classification of a property. The entire area of the Subject Property is proposed to be rezoned to M-1, Limited Manufacturing District.

**SECTION 5.** Section 157.245 of the Village Code provides procedures and requirements for the approval of preliminary development plans for planned unit developments, including modifications to certain provisions of the standards of the underlying zoning district.

**SECTION 6.** In accordance with Section 157.241(E), the Applicant has requested the following five modifications to the standards of the proposed underlying zoning district:

- A. *Use modifications:* A modification to permit a full range of light industrial and commercial uses throughout the property. The proposed use list includes all uses permitted in the M-1 and B-2 districts, as well as motor truck terminals, gas stations and retail, and automotive retail and services.
- B. *Building setbacks:* A modification to permit a 40-foot minimum front setback and 20-foot minimum setbacks on the sides and rear of all lots to be created on the Subject Property.
- C. *Parking setback:* A modification to permit parking in the required front yard setback with a setback of ten feet.
- D. *Business district signage:* A modification to permit the signage standards applicable to business districts (as provided in Chapter 156 of the Village Code) apply to all lots to be created on the Subject Property.
- E. *Freestanding signage:* A modification to have the standards for freestanding signs included in Sec. 156.04(E) of the Village Code (East Side Commercial Overlay District) apply to all lots to be created on the Subject Property with the provision that the use of electronic signs shall be limited to specific types of businesses/developments as described in said section.

**SECTION 7.** Section 157.246 of the Village Code provides procedures and requirements for the approval of variations to provisions of the standards of the underlying zoning district as part of the review and approval of a preliminary development plan.

**SECTION 8.** In accordance with Section 157.246, the Applicant has requested the following two variations to the standards of the underlying zoning district:

- A. *Sec. 157.241(I)(9) – Landscape coverage.* A variation to permit the landscape standards of Sec. 158.04(D) of the Village Code to apply to all lots to be created on the Subject Property in lieu of the landscape coverage standards contained in the captioned section.
- B. *Sec. 157.241(J)(2) – Minimum open space area.* A variation to permit the minimum open space area for the Subject Property to be reduced to 5% in lieu of the 10% required by the captioned section.

**SECTION 9.** Based on the testimonial evidence presented at the Public Hearing, the completed application forms and materials submitted to the Village by the Applicant, the Planning and Zoning Commission finds the following with respect to the Applicant's proposal and in so doing, finds that the Project meets the standards for a rezoning and a preliminary development plan for a planned unit development, subject to the conditions described in Section 10, herein:

- A. With respect to the proposed rezoning from R-1 to M-1, the Planning and Zoning Commission finds that:
  - 1) The proposed rezoning is compatible with existing uses of property within the general area of the Subject Property;
  - 2) The proposed rezoning is compatible with the zoning classifications of property within the general area of the Subject Property;
  - 3) The Subject Property is not suitable for the uses permitted under the existing zoning classification;
  - 4) The proposed rezoning is compatible with the trend of development in the general area;
  - 5) The proposed rezoning is consistent with the adopted Village comprehensive plan; and,
  - 6) The proposed rezoning is in the public interest and is not solely for the interest of the Applicant.
- B. With respect to the proposed preliminary development plan for a planned unit development, the Planning and Zoning Commission finds that:
  - 1) The proposed preliminary development plan complies with all applicable planned unit development standards;
  - 2) The proposed preliminary development plan is consistent with the comprehensive plan, including the density and intensity of development, and the actual text, maps and drawings in the comprehensive plan;
  - 3) The proposed preliminary development plan is compatible with the existing uses and zoning district classifications of nearby property;
  - 4) The proposed preliminary development plan is suitable for the Subject Property and uses permitted under the proposed zoning classification;
  - 5) The proposed preliminary development plan is consistent with land development conditions in the vicinity of the Subject Property given the length of time the property has been vacant as currently zoned;
  - 6) There are changed and changing conditions in the vicinity of the Subject Property that make the proposed preliminary development plan reasonable and necessary to the promotion of public health, safety, morals and general welfare;



- 7) That adequate public facilities including, but not limited to, schools, parks, police and fire protection, roads, sanitary and storm sewers, and water lines exist or will be provided concurrent with the development of the Project; and,
  - 8) The proposed preliminary development plan does not lessen or impede the suitability for the permitted use and development of, nor is it injurious to the use and enjoyment of, nor substantially diminish or impair the value of, nor is incompatible with, other property in the immediate vicinity.
- C. With respect to the five proposed modifications to the regulations of the proposed underlying zoning district as described in Section 6, herein, the Planning and Zoning Commission finds that the proposed preliminary development plan for a planned unit development provides the following:
- 1) Sufficient mitigation such that the protection of the use and enjoyment of neighboring properties is equal to or greater than that afforded were the regulations not modified;
  - 2) Sufficient mitigation such that the protection of the use and enjoyment of lots and sites within the proposed development is equal to or greater than that afforded were the regulations not modified;
  - 3) The following amenities in excess of what would otherwise be required by Village codes in a sufficient quality and/or quantity that, on the whole, provide greater community benefits than if the modifications were not granted:
    - a) Enhanced open space areas and environmental/natural preservation areas;
    - b) Enhanced community facilities beyond those necessary to serve the proposed development;
    - c) Outstanding landscape design; and/or;
    - d) Enhanced buffering, screening and integration with surrounding development.
- D. With respect to the two variations to the regulations of the proposed underlying zoning district as described in Section 8, herein, the Planning and Zoning Commission finds that the proposed preliminary development plan for a planned unit development provides the following:
- 1) The particular physical surroundings, shape or topographical conditions of the specific property involved would bring a particular hardship upon the owner as distinguished from a mere inconvenience if the regulations were strictly enforced;
  - 2) The conditions upon which the petition for the variations is based would not be applicable generally to other property within the same zoning classification;
  - 3) The purpose of the variations is not based exclusively upon a desire to make more money out of the property;
  - 4) The alleged difficulty or hardship has not been created by any person presently having an interest in the property;
  - 5) The granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located; and
  - 6) The proposed variations will not impair an adequate supply of light and air to adjacent property or substantially increase the danger of fire or

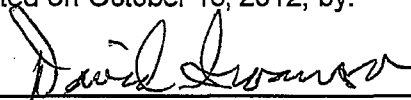
otherwise endanger the public safety or substantially diminish or impair property values within the neighborhood.

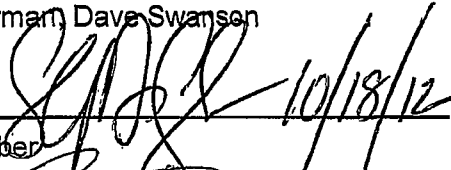
**SECTION 10.** The Planning and Zoning Commission recommends approval of the requested rezoning and preliminary development plan (including the five requested modifications and two requested variations as described herein) for the Project on the express condition that the Applicant, owners and operators and any successor owners and operators of the Subject Property or any portion thereof comply with the following:


- A. The Applicant is strongly encouraged to submit a complete sign package providing freestanding, wall-mounted, shared, electronic and similar standards for all lots within the Terra Business Park prior to or concurrent with the next application for a final development plan approval.
- B. Prior to or concurrent with the first application for a final development plan approval for the Subject Property, the Applicant shall submit a complete application for a preliminary plat approval including all streets, easements and utilities necessary to serve the proposed development.


**SECTION 11.** On October 18, 2012, the Village of East Dundee Planning and Zoning Commission voted \_\_\_ to \_\_\_ to recommend the Project for approval based on the Findings of Fact and conditions as described in this Report.

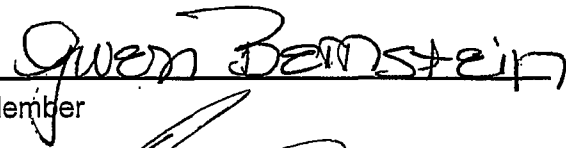
Adopted on October 18, 2012, by:

  
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Chairman Dave Swanson


  
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