

**ORDINANCE NUMBER 23 - 09**

**AN ORDINANCE OF THE VILLAGE OF EAST DUNDEE, COOK AND KANE COUNTIES, ILLINOIS GRANTING A SPECIAL USE PERMIT FOR AN INDOOR MALL FOR THE PROPERTY LOCATED AT 535 DUNDEE AVENUE, EAST DUNDEE, IL, 60118, PORTION OF PIN 03-26-227-007, LOCATED IN THE B-3 BUSINESS DISTRICT**

**WHEREAS**, the Village of East Dundee (“Village”) is a home rule unit of local government pursuant to Section 6 of Article VII of the Constitution of the State of Illinois, and has the authority to exercise any power and perform any function pertaining to its government and affairs; and

**WHEREAS**, pursuant to Section 157.224 of the Village of East Dundee Zoning Ordinance (“Zoning Ordinance”) and the Village's home rule authority, the Village President and Board of Trustees of the Village (“Corporate Authorities”) may provide for and allow the classification of special uses in its zoning districts; and

**WHEREAS**, pursuant to the Zoning Ordinance, any person owning or having an interest in property may file an application to use such property for one or more of the special uses provided for in the zoning district in which the land is situated; and

**WHEREAS**, Bob Tzotzolis (495 Dundee LLC) (“Owner”) is the record owner of real property located at 535 Dundee Ave., East Dundee, IL 60118 (“Property”); and

**WHEREAS**, Elgin Mall Corp. (“Applicant”), with the consent of the Owner, filed an application (“Application”) with the Village seeking a special use permit to operate an indoor mall at the Property, as more fully described in the Application; and

**WHEREAS**, notice of a public hearing on the Application before the Village's Planning and Zoning Commission was duly given and a public hearing was held on the Application on February 2, 2023; and

**WHEREAS**, the Planning and Zoning Commission reviewed the standards set forth in Section 157.224 of the Zoning Ordinance for a special use permit and recommended approval of the Application, and related findings of fact; and

**WHEREAS**, the Corporate Authorities have reviewed the Planning and Zoning Commission's findings of fact and recommendations on the Application, and find it to be in the best interests of the health, safety and welfare of its residents to approve the requested special use for an indoor mall on the Property, subject to the conditions contained within Section 3 of this Ordinance;

**NOW, THEREFORE, BE IT ORDAINED** by the Village President and Board of Trustees of the Village of East Dundee, Cook and Kane Counties, Illinois, as follows:

**SECTION 1: Incorporation.** That each Whereas paragraph above is incorporated by reference into this Section 1 and made a part hereof as material and operative provisions of this Ordinance.

**SECTION 2: Approval of Special Use Permit.** The Corporate Authorities hereby approve the Application and grant a special use permit for the Property (as depicted in Exhibit A) legally described as:

PORTION OF PIN 03-26-227-007

LOT 1 OF LPC SUBDIVISION, IN THE VILLAGE OF EAST DUNDEE, KANE COUNTY, ILLINOIS.

Commonly known as 535 Dundee Avenue, East Dundee, Illinois 60118 for an indoor mall.

**SECTION 3: Conditions of Approval.** That the special use permit granted herein shall be constructed, operated and maintained in accordance with any plans and diagrams submitted as part of the Application, and shall be subject to the following terms and conditions:

1. No tenant's storage / display shall reach above the wall line of each individual tenant's unit.
2. The Property must conform with the Zoning Ordinance requirements for the B-3 Business District.
3. Operation of the Special Use must be in compliance with all other local, state, and federal laws that apply to such uses.
4. All building code and life safety requirements of the Property must be satisfied, as approved by the Village.
5. The exterior build-out of each tenant's unit must have uniform and consistent framed style of construction with built walls. Curtains or other non-sturdy materials shall not be used to separate units.
6. Each unit shall operate with a point-of-sale terminal or other electronic cash register that records all transactions occurring at the unit.
7. Signage shall only be displayed above the entrance to each unit. Each sign will have a maximum signage area of twenty (20) square feet per sign, per individual unit. No permit fees are required for said signs.
8. All operating units/individual businesses must be licensed with the Village in accordance with Chapter 110 General Licensing Provisions of the Municipal Code.
9. The Owner, and all subsequent owner(s) of 535 Dundee Ave (PIN 03-26-227-007), shall be subject to Chapter 119 Rental License of the Municipal Code
10. Litter patrol shall occur at least once per day five days per week and shall remove any litter on the Property.

11. Kiosks, displays, items or materials for storage and / or sale are not permitted in the aisles or halls or walkways of the Property.
12. Tenant quantity capped at 90 individual businesses / tenants during the first 12 months after opening. Applicant can reapply at that time for additional permitted individual businesses / tenants if parking has sufficient capacity as observed over the first 12 months.
13. Each unit shall provide a constructed method to secure the entries and exits and/or merchandise to the individual units during closed and/or off hours of businesses such as entry doors, overhead doors or curtains with locking mechanisms (excluding restaurants).
14. The Owner shall complete the parking lot improvements, as set forth in the Application and related documents, by September 1, 2023, and façade improvements, as set forth in the Application and related documents, within 12 months of the indoor mall commencing operation.
15. Each individual business unit / tenant must have its own unit or suite number.
16. After 12 months of commencing operation, the Applicant must appear before the village board of trustees to offer a status report, and it will be at the discretion of the village board of trustees to require future annual reports.

**SECTION 4: Failure to Comply with Conditions.** The failure of Applicant, or its successors or assigns, to comply with one or more of the conditions listed in Section 3 above shall be grounds for the potential revocation of the Special Use Permit. Upon notice, a hearing will be held. The notice will provide Applicant 14 days in which to respond and answer. A hearing will be held no sooner than 30 days after the service of the notice.

**SECTION 5: Severability.** That if any Section, paragraph or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such Section, paragraph or provision shall not affect any of the remaining provisions of this Ordinance.

**SECTION 6: Repeal.** That all ordinances, resolutions, motions or parts thereof in conflict herewith shall be and the same are hereby repealed.

**SECTION 7: Effect.** That this Ordinance shall be in full force and effect forthwith upon its adoption, approval and publication in pamphlet form as provided by law.

**PASSED** this 20<sup>th</sup> day of February 2023 pursuant to a roll call vote as follows:

AYES: Kunze, Brittin, Saviano and Sauder

NAYES: Treiber

ABSENT: Mahony and President Lynam

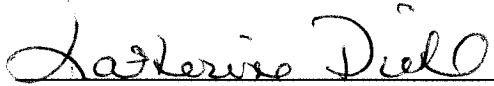
APPROVED by me this 20<sup>th</sup> day of February 2023.



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Jeffrey Lynam, Village President

**ATTEST:**



Katherine Diehl, Village Clerk

Published in pamphlet form this 20<sup>th</sup> day of February 2023, under the authority of the Village President and Board of Trustees.

Recorded in the Village records on February 22, 2023.

The Applicant acknowledges hereby the reasonableness of the above and foregoing terms and conditions in the Ordinance, and hereby accepts the same.

By: 

Applicant

Date: February <sup>th</sup> 24, 2023

