

ORDINANCE NO. F-0885

**AN ORDINANCE AMENDING THE WHEATON ZONING MAP AND GRANTING A SPECIAL USE PERMIT FOR A PLANNED UNIT DEVELOPMENT ON A CERTAIN PIECE OF PROPERTY LOCATED ON THE WEST SIDE OF NAPERVILLE ROAD – 18 BLANCHARD CIRCLE
BANK OF AMERICA**

WHEREAS, written application has been made to amend the Zoning Map, which is attached to and forms the part of, the Zoning Ordinance of Wheaton, Illinois and for the issuance of a special use permit for a planned unit development to allow the demolition of an existing commercial building and the construction of a new Bank of America bank facility with three drive-thru lanes on property legally described herein within the city limits of Wheaton, Illinois, and located on the west side of Naperville Road at 18 Blanchard Circle; and

WHEREAS, pursuant to notice as required by the Illinois Municipal Code and the City Zoning Ordinance, a public hearing was conducted by the Wheaton Planning and Zoning Board on January 27, 2004 to consider the zoning amendment and special use permit; and the Wheaton Planning and Zoning Board has recommended approval of the zoning amendment and issuance of the special use permit.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Wheaton, DuPage County, Illinois, pursuant to its home rule powers, as follows:

Section 1: The Zoning Map, which is attached to and forms a part of the City Zoning Ordinance, is amended by including the following described C-5 zoned property in the C-5 Special Use/Planned Unit Development District zoning classification:

LOT 2 IN THE KEIM'S RESUBDIVISION OF LOTS 5 & 6 IN KEIM'S DANADA WEST SUBDIVISION, BEING A SUBDIVISION OF PART OF THE WEST 1/2 OF SECTION 28, TOWNSHIP 39 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED OCTOBER 4, 1989 AS DOCUMENT R89-124843, IN DUPAGE COUNTY, ILLINOIS. P.I.N. 05-28-308-004

The subject property is commonly known as 18 Blanchard Circle, Wheaton, IL 60187. ("Subject Property").

Section 2: Pursuant to the Findings of Fact determined by the Wheaton Planning and Zoning Board, a special use permit is granted to permit the demolition of an existing commercial building and the construction and use of a planned unit development consisting of a new Bank of America bank facility with three drive-thru lanes in substantial compliance with the exterior elevations and floor plan entitled "Bank of America Wheaton, dated December 16, 2003 prepared by Gensler, 30 W. Monroe, Suite 400, Chicago, IL 60603", the site improvement plans entitled "Bank of America - Wheaton, dated December 17, 2003 Sheets C000 thru C700 prepared by Woolpert LLP, Executive Towers West II, 1411 Opus Place, Suite 118, Downers Grove, IL 60515", and in further compliance with the following conditions, restrictions and requirements:

Prior to the issuance of a site development permit, owner/developer shall:

- A) Provide that all rooftop mechanical equipment be screened in accordance with Article 3.4c of the City of Wheaton Zoning Ordinance.
- B) Provide sufficient trash storage as approved by the Director of Planning and Economic Development in accordance with all applicable City of Wheaton regulations.

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EXHIBIT "A"

FIRE LANE DESIGNATION AND ENFORCEMENT AGREEMENT

THIS AGREEMENT is made and entered into this ___TH day of _____, 200_, by and between the City of Wheaton, an Illinois Municipal Corporation, 303 W. Wesley Street, Wheaton, Illinois 60189 (hereinafter referred to as "CITY") and _____ (hereinafter referred to as "OWNER(S)"), OWNER(S) of the property located at _____, within the corporate limits of the City of Wheaton, Illinois (hereinafter referred to as "Subject Property"), and which is legally described below:

(Insert Legal Description)

RECITALS

WHEREAS, the OWNER(S) desire to establish Fire Lanes upon the Subject Property to improve the health and safety of the citizens of Wheaton; and

WHEREAS, the CITY believes that it is in the best interests of the public health and safety that Fire Lanes be established, maintained and enforced upon the Subject Property.

NOW, THEREFORE, in consideration of the mutual covenants and obligations contained herein, the OWNER(S) and CITY agree to the following in regards to the Subject Property:

1. The CITY Fire Chief, Chief of Police or their designated representative and OWNER(S), shall identify the specific Fire Lane locations within the Subject Property which shall, pursuant to the terms of this Agreement and Ordinance No. F-_____, be regulated. The specific locations of the Fire Lane(s) to be enforced shall be as set forth on the Site Plan ("Plan") attached hereto and fully incorporated into this Agreement as Exhibit "B". The CITY Fire Chief, Chief of Police or their designated representative and OWNER(S) or designated representative may from time to time mutually agree to amend the Fire Lane(s) location(s) as set forth in the Site Plan. At such time, the Site Plan shall be amended and appended to this Agreement as an Amended Exhibit "B".

2. The OWNER(S) are responsible for providing any required pavement markings.

3. The OWNER(S), at their sole expense, shall be responsible for obtaining, erecting and maintaining the appropriate signage in accordance with applicable CITY and State of Illinois regulations and specifications.

4. The CITY shall inspect and approve the signage prior to entering into this Agreement. The CITY Fire Chief, Chief of Police or their designated representative may require additional signage and/or pavement markings, if it is later determined that the inspected and approved signage does not provide adequate notification of the established fire lanes.

5. Upon execution of this Agreement, the CITY will enforce the Fire Lane parking and standing prohibitions and the Fire Lane maintenance requirements contained in sections 70-355 and 30-2 of the Wheaton City Code in regards to the Subject Property. No "special duty" to third persons shall be imposed by this Agreement. The CITY's enforcement obligation shall be legally the same as it is with all other ordinances.

6. This Agreement may be terminated by either party by providing not less than thirty (30) days notice to the other party of the intention to terminate this Agreement.

7. This Agreement shall be assignable by OWNER(S) to their successors in interest upon the sale or lease of the Subject Property.

8. The OWNER(S) hereby agrees to release and hold harmless, indemnify and defend (including the payment of all costs and attorneys' fees) the CITY, its Officers, Agents and Employees, in connection with any and all actions or claims for any loss, damage, personal injury or death occurring as a consequence of the performance of this Agreement.

9. The sole remedy available to the OWNER(S), upon any breach of this Agreement by the CITY, shall be the termination of the Agreement. It is of the essence of this Agreement that the CITY shall not be liable in money damage for any breach of this Agreement.

10. Whenever notice to the CITY is required, it shall be addressed to:

City Clerk
City of Wheaton
303 West Wesley Street
Wheaton, IL 60189-0727

Whenever notice to the Owner is required, it shall be addressed to:

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IN WITNESS WHEREOF, the parties hereto have executed this instrument by their duly authorized officers of the day and year first above written.

CITY OF WHEATON, ILLINOIS, a Municipal Corporation

BY: _____
City Manager

ATTEST: _____
City Clerk

BY: _____

ATTEST: _____