

ORDINANCE NO. 2001-622

**AN ORDINANCE GRANTING CERTAIN PROPERTY
LOCATED IN THE VILLAGE OF SOUTH BARRINGTON
REZONING, APPROVAL OF PRELIMINARY PLAN OF PLANNED
UNIT DEVELOPMENT, SPECIAL USES, APPROVAL OF
PRELIMINARY PLAT OF SUBDIVISION, AND APPROVAL
OF PRELIMINARY ENGINEERING PLANS**

WHEREAS, there exists within the corporate boundaries of the Village of South Barrington certain real property legally described on Exhibit A hereto containing approximately six hundred ten (610) acres and located generally in an area bounded by Higgins Road to the south, Route 59 to the west and the northwest and Bartlett Road to the east and located north and south of Penny Road (the "Property").

WHEREAS, the Property is currently owned by the following parties: Klehm Properties, Inc., an Illinois corporation, LaSalle National Bank, as Trustee under Trust Agreement dated June 3, 1997 and known as Trust No. 121063, LaSalle National Trust, N.A., successor to LaSalle National Bank, as Trustee under Trust Agreement dated November 20, 1974 and known as Trust No. 10-29663-09, LaSalle National Trust, N.A., successor to LaSalle National Bank, as Trustee under Trust Agreement dated January 6, 1975 and known as Trust No. 48415, LaSalle National Trust, N.A., successor to LaSalle National Bank, as Trustee under Trust Agreement dated December 20, 1974 and known as Trust No. 48413 and LaSalle National Bank, a national banking association, as Trustee under Trust Agreement dated May 6, 1975 and known as Trust No. 48845 (referred to individually as an "Owner" and collectively or in groups of two or more as the "Owners").

WHEREAS, Woods of South Barrington, L.L.C., a Delaware limited liability company (the "Developer") is the contract purchaser and proposed developer of the Property.

WHEREAS, the various parcels which comprise the Property are currently zoned A-1 Single-Family Residential District and A-2 Single-Family Residential District.

WHEREAS, on June 29, 2000, the Developer, with written authorization from the Owners, submitted to the Village a Petition, together with all required supporting materials, captioned "Petition for Rezoning (Planned Unit Development Approval), Approval of a Preliminary Planned Unit Development Plan and Approval of a Preliminary Plat of Subdivision (which Petition along with such supporting materials as the same has been amended from time to time is referred to herein as the "Petition").

WHEREAS, the Petition requested, among other things, the following (collectively, the "Approvals"):

(1) Rezoning of the entirety of the Property to Planned Unit Development District pursuant to the Village's Zoning Ordinance (herein referred to as the "Zoning Ordinance");

(2) Approval of a preliminary plan of planned unit development for the Property as set forth in the Petition;

(3) Approval in the Planned Unit Development District of the following special uses for the Property:

A. Single family residential lots of less than one acre in size, it being acknowledged that the Property will be developed with not more than 495 homes (in addition to the Klehm homestead located in Area K as shown on the Preliminary PUD Plan) over approximately 553 acres of the Property designated in the Petition for residential uses, yielding an overall average density of no more than one dwelling unit per gross acre of the Property as of the date hereof;

B. Within certain portions of the Property designated in the Petition as "Area A" or "Commercial District A" (hereinafter, "Commercial District A"), any and all permitted and special uses contained in the B-2 General Retail Business District regulations of the Zoning Ordinance and any and all office and hotel uses;

C. Within those portions of the Property designated in the Petition as Commercial District A, an assisted living component of not more than 150 units as further described in the Petition;

D. Throughout the Property, parking facilities; public utility facilities (including but not limited to sewer lift stations, wells, water treatment facility and potable water tank); and accessory buildings and uses (including, but not limited to, a clubhouse serving the area of the Property designated as Areas C and D in the Petition); and

E. Such other special uses as may be requested by Developer and approved by the Village in furtherance of the Development Proposal (as defined in the Petition);

(4) A waiver from Chapter 6A, Section V.A.11(s) of the Zoning Ordinance, pursuant to Chapter 6A, Section V.A.17 of the Zoning Ordinance, to permit excluding nursery stock trees and plantings relating to the Owner's historic use of the Property from the Landscape and Vegetation Inventory and Preservation Plan submitted with the Petition;

(5) Approvals to permit the continuation of the existing homestead for the Klehm family and the continuation of any and all nursery operations on the Property as permitted

uses under the Zoning Ordinance before, during and after all approvals contemplated by the Petition;

- (6) Approval of a preliminary plat of subdivision for the Property;
- (7) Approval of preliminary engineering plans for the Property; and
- (8) Approval of such other relief and the granting of such other matters as may be necessary or desirable in furtherance of the matters contained in the Petition.

WHEREAS, the Village has determined that the proposed development of the Property will be compatible with and will further the planning objectives of the Village and will be of substantial benefit to the Village, will permit orderly growth, planning and development of the Property, and will promote and enhance the general welfare of the Village and its residents, and that such use and development of the Property will create housing, job and economic growth opportunities within the Village.

WHEREAS, the Village has determined that, under the Zoning Ordinance, the most appropriate zoning district classification for the development of the Property is the Planned Unit Development District, as authorized in Chapter 6A of the Zoning Ordinance.

WHEREAS, pursuant to notice, as required by statute and ordinance, a public hearing was held on the Approvals by the Village's Plan Commission commencing on July 17, 2000 and continuing on July 24, 2000, August 7, 2000, August 14, 2000, August 28, 2000, September 18, 2000, October 16, 2000, November 6, 2000 and November 13, 2000, and the findings of fact and recommendations made by said body relative to such requests were forwarded to the Corporate Authorities.

WHEREAS, all other and further notices, publications, procedures, public hearings and other matters attendant to the consideration and approval of this Ordinance and the Approvals have been given, made, held and performed by the Village as required by the Illinois Municipal Code and other applicable statutes, and all applicable ordinances, regulations and procedures of the Village.

WHEREAS, the Corporate Authorities have duly considered the Petition and the recommendations of the Village Plan Commission in connection with the Approvals.

NOW THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of South Barrington, Cook County, Illinois that:

Section 1: The preceding recitals are incorporated by reference as if set forth fully herein.

Section 2: The Property is hereby reclassified from its present zoning classifications of the A-1 Single-Family Residential District and the A-2 Single-Family Residential District to Planned

Unit Development District, and the Zoning Map of the Village of South Barrington is hereby amended to conform to the foregoing zoning change.

Section 3: The Preliminary Plan of Planned Unit Development for the Property in the form attached as Exhibit B hereto consisting of 48 pages prepared by HKM Architects & Planners, with a latest revision date of December 21, 2000 and January 5, 2001 (Klehm Woods Design Guidelines only) and including Community Development Guidelines, Preliminary Landscape Plan and Klehm Woods Design Guidelines (collectively, the "Preliminary PUD Plan") is hereby approved as the preliminary planned unit development plan for the Property as provided in Chapter 6A of the Zoning Ordinance.

Section 4: The following special uses are hereby approved for the Property and the Planned Unit Development approved for the Property:

A. Any and all single family residential lots of less than one acre in size as designated in the Preliminary PUD Plan, it being acknowledged that the Property will be developed with not more than 495 homes (in addition to the single dwelling unit in the Klehm Estate) over approximately 553 acres of the Property designated in the Preliminary PUD Plan for residential uses, yielding an overall average density of no more than one dwelling unit per gross acre of the Property as of the date hereof.

B. Within Commercial District A, any and all permitted and special uses contained in the B-2 General Retail Business District regulations of the Zoning Ordinance and any and all office and hotel uses.

C. Within Commercial District A, an assisted living component of not more than 150 units. For purposes of this Ordinance, and as set forth in the Approvals Ordinance, the term "assisted living" shall mean: A lot or lots containing living quarters for elderly adults as the primary use and multiple categories of congregate-care retirement services as accessory uses, and may include one or more buildings and one or more accessory structures, but not including apartments or condominium units which are not a part of the assisted living facility, a skilled-care nursing home, a hospital, an adult day care center or living quarters that serve persons as an alternative to incarceration for a criminal offense. The services to be provided shall be for residents of the assisted living facility only and may include: room and board services and facilities (such as housekeeping, landscape and building maintenance, security, dining facilities, prepared meals, grocery delivery, laundry and laundry facilities); health and beauty services and facilities (such as a barber/beauty shop, dressing assistance, toiletry and cosmetic assistance, pharmacy, health club, spa, indoor and outdoor exercise facilities, physical therapy, and daily personal health care assistance, other than full-time nursing care); social, educational and entertainment services and facilities (such as areas for worship and gathering, an ice cream parlor or coffee shop, a library or bookshop, art supplies and studio areas, dance studios, indoor golf facilities, greenhouses and outdoor landscaped areas, sitting and lounging areas); and miscellaneous services and facilities (such as transportation

assistance, concierge services, convenience store, and gift shop). Services shall not include child care, care of developmentally disabled adults, or full-time nursing care. In no event shall such units be deemed a part of the 495 "dwelling units" approved by the Preliminary PUD Plan.

D. Throughout the Property as reflected in the Preliminary PUD Plan and the Preliminary Engineering Plans (as hereinafter defined), parking facilities; public utility facilities (including but not limited to sewer lift stations, wells, water treatment facility and potable water tank); and accessory buildings and uses (including, but not limited to, a clubhouse serving the area of the Property designated on the Preliminary PUD Plan as Areas C and D.

Section 5: It is hereby acknowledged and ratified that the Village has granted a waiver from Chapter 6A, Section V.A.11(s) of the Zoning Ordinance, pursuant to Chapter 6A, Section V.A.17 of the Zoning Ordinance, such that nursery stock trees relating to the Owner's present and historic use of the Property were properly excluded from the Landscape and Vegetation Inventory and Preservation Plan submitted with the Petition.

Section 6: Notwithstanding any provision of the Zoning Ordinance, the Village's Subdivision Ordinance (herein referred to as the "Subdivision Ordinance"), or any other code, ordinance or regulation of the Village (including but not limited to the provisions of this Ordinance, and the Village's building, health, safety or fire codes), the existing residential homestead for the Klehm family and any and all nursery operations shall be permitted to continue (including expansion of nursery stock types and quantities) as permitted uses on any and all portions of the Property, and the existing structures, improvements, buildings, roadways and well and septic systems shall be permitted to remain and be used on any and all portions of the Property.

Section 7: The Preliminary PUD Plat/Preliminary Plat of Subdivision for the Property in the form attached as Exhibit C hereto consisting of 6 pages prepared by Cowhey Gudmundson Leder, Ltd., with a latest revision date of December 26, 2000 (the "Preliminary PUD/Subdivision Plat") is hereby approved as the preliminary subdivision plat for the Property;

Section 8: The Preliminary Engineering Plans (Preliminary Plat Documents) for the Property in the form attached as Exhibit D hereto consisting of 10 pages prepared by Cowhey Gudmundson Leder, Ltd., with a latest revision date of December 28, 2000 (the "Preliminary Engineering Plans") are hereby approved as the preliminary engineering plans for the Property.

Section 9: The Preliminary Wetlands Planting Plan for the Property in the form attached as Exhibit E hereto consisting of 19 pages prepared by Environmental Planning Team - Chicago with a latest revision date of October 24, 2000 (the "Preliminary Wetlands Planting Plan") is hereby approved as the preliminary wetlands planting plan for the Property.

Section 10:

A. The Property shall be developed only in accordance with this Ordinance, the Preliminary PUD Plan, the Preliminary Engineering Plans, the Preliminary PUD/Subdivision Plat, the Preliminary Wetlands Planting Plan and other applicable ordinances and regulations of the Village as the same may be modified pursuant to the terms of this Ordinance. The maximum number of dwelling units permitted on the Property shall be 495 (in addition to the single dwelling unit located on the Klehm estate). Uses in Commercial District A shall be limited to the non-residential uses (and in addition the assisted living component) designated for Commercial District A in the Preliminary PUD Plan. No residential use of any type (other than the approved assisted living component) shall be permitted in Commercial District A.

B. The Preliminary PUD Plan, the Preliminary PUD/Subdivision Plat, the Preliminary Engineering Plans and the Preliminary Wetlands Planting Plan establish the standards for the development of the various portions of the Property, which development is anticipated to be implemented in stages or phases. Developer shall have the right to submit for approval Final Plans of Planned Unit Development as provided in Chapter 6A of the Zoning Ordinance (a "Final PUD Plan" or the "Final PUD Plans"), final plats of subdivision (a "Final Subdivision Plat" or the "Final Subdivision Plats"), final engineering plans (the "Final Engineering Plans") and final wetlands planting plans (the "Final Wetlands Planting Plans") in such phases or stages as Developer shall determine and shall not be required to submit and implement a single Final PUD Plan, a single Final Subdivision Plat, a single set of Final Engineering Plans or a single set of Final Wetlands Planting Plans for the entirety of the Property. Developer shall use commercially reasonable efforts to substantially adhere to the Projected Construction Schedule attached to this Ordinance as Exhibit F, but, notwithstanding the foregoing and notwithstanding the provisions of Chapter 6A of the Zoning Ordinance to the contrary, the requirements contained in Chapter 6A with respect to the time periods for subsequent submission of Final PUD Plans (and Final Subdivision Plats and Final Engineering Plans) following approval of the Preliminary PUD Plan and the Preliminary PUD/Subdivision Plat shall not be applicable to Developer or to the development of the Property nor shall there be any limits imposed upon Developer with respect to the number of Final PUD Plans, Final Subdivision Plats and sets of Final Engineering Plans for the phases of the proposed development; provided that, upon the filing of a Final Subdivision Plat for approval, the time limits for Village determination of approval shall be in conformance with the provisions of Chapter 6A of the Zoning Ordinance, applicable provisions, if any, of the Subdivision Ordinance, and applicable statutes. In connection with the development of the Property, Developer may elect to submit for approval Final PUD Plans, Final Subdivision Plats, Final Engineering Plans and Final Wetlands Planting Plans for portions of the Property intended to be developed only with infrastructure improvements, open space, wetlands mitigation areas, and other similar features.

C. Although the Preliminary PUD Plan as applied to Commercial District A approves various parameters for uses, density and bulk, no specific development plans have

been submitted by Developer nor approved by the Village, and, accordingly, in connection with the development of Commercial District A for such approved uses, Developer shall be required to submit for each portion of Commercial District A then proposed to be improved a new and updated preliminary plan of planned unit development for the applicable area in accordance with the requirements for preliminary PUD plan approval contained in Chapter 6A of the Zoning Ordinance and substantially conforming with the limited approvals for Commercial District A contained in the Preliminary PUD Plan. Each such new and updated preliminary plan and planned unit development for any portion of Commercial District A shall require a public hearing before the Village's Plan Commission and approval by the Corporate Authorities. In connection with the foregoing, Developer shall have the right to seek combined preliminary and final PUD plan approval for the applicable portion of Commercial District A provided all requirements of Chapter 6A of the Zoning Ordinance for such approvals are satisfied. In connection with the matters set forth in subparagraphs B. above, Developer shall additionally have the right to seek approval of multiple Final PUD Plans, Final Subdivision Plats and applicable Final Engineering Plans for Commercial District A, it being acknowledged that Commercial District A may itself be developed in stages or phases.

Section 11: Where the subject of a proposed amendment or change to this Ordinance, the Preliminary PUD Plan or any Final PUD Plan relates to a portion of the Property only, the petition or application for such change need be executed only by the then-owner(s) of the applicable portion of the Property and need not be executed by the owners of the unrelated portions of the Property; provided, however, that any such petition or application shall in all cases require the written consent and joinder of Developer, whether or not Developer is then the owner of the affected portion of the Property, for so long as Developer has or retains an interest in any portion of the Property.

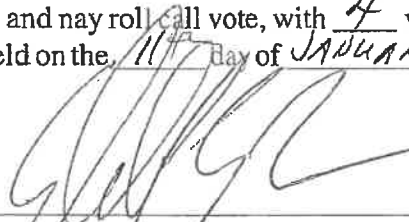
Section 12: Each section, clause and provision of this Ordinance shall be considered as separable, and the invalidity or unenforceability of one or more shall not have any effect upon the validity of other sections, clauses or provisions of this Ordinance.

Section 13: In the event of any conflict between the terms of this Ordinance and the terms of the Zoning Ordinance, the Subdivision Ordinance, or any other code, ordinance or regulation of the Village (including but not limited to the provisions of this Ordinance, and the Village's building, health, safety or fire codes), the terms of this Ordinance shall control and prevail in all instances.

Section 14: This Ordinance shall be in full force and effect from and after its passage, approval and publication as required by law.

PRESENTED, PASSED AND ADOPTED at a regular meeting of the Village Board of the Village of South Barrington, Cook County, Illinois, by and aye and nay roll call vote, with 4 voting aye, 2 voting nay, 0 absent, which meeting was held on the 11th day of JANUARY, 2001.

Dated: January 11, 2001



Michael Neben, Village President

ATTEST:



Noreen Ariola, Village Clerk

AYES: 4
NAYS: 2
ABSENT: 0