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DENNIS KNOBLOCH  
MONROE COUNTY RECORDER  
WATERLOO, IL  
RECORDED ON

12/20/2017 08:07:53AM

MISC R FEE: 28.00

PAGES: 6

BOOK PAGE

## **ORDINANCE NO. 3318**

**AN ORDINANCE FOR CONDITIONAL APPROVAL TO GRANT A SPECIAL USE PERMIT FOR REAL ESTATE HAVING THE TAX IDENTIFICATION NUMBER 04-17-481-026-000, IN THE CITY OF COLUMBIA, ILLINOIS FOR BART BERNEKING AND BRAD EATON, TO ALLOW A RESTAURANT, DRIVE-THRU TYPE IN A C-2 (GENERAL BUSINESS) ZONED DISTRICT IN THE CITY OF COLUMBIA, ILLINOIS**

WHEREAS, Bart Berneking and Brad Easton (the "Applicants") wish to construct a restaurant, drive-thru type in the City of Columbia, Illinois (the "City") having the assigned Tax Identification Number 04-17-481-026-000 which property is zoned C-2 (General Business) District and for the uses and purposes therein allowed;

WHEREAS, Section 17.28.010 (B) (22) of the City's Zoning Code allows a restaurant, drive-thru type business to be located and operated in a C-2 (General Business) Zoned District by Special Use Permit provided the facility complies with Section 17.40 Special Uses and Figure 1 within said section as the City Council shall reasonably require;

WHEREAS, the Applicant has applied for a Special Use Permit to allow a restaurant, drive-thru type business;

WHEREAS, Section 17.40.010 of the City's Zoning Code requires that an applicant for a Special Use Permit notify the owners of all property located within two hundred fifty (250) feet of the out-boundary of the property for which the special use permit is requested before their application for Special Use Permit is filed, advising said property owners, among other things, of the special use they are requesting permission to build; additionally, the applicant's application is required to be referred to the City's Plan Commission for the Plan Commission's recommendation; furthermore a public hearing is required to be held before the City's Zoning Board of Appeals following the publication of the required hearing notice in a newspaper published in the City;

WHEREAS, the Applicant has given the required notice to affected property owners; on Monday, March 27, 2017 the Plan Commission recommended the granting of the special use permit requested by the Applicant; and on Wednesday, March 22, 2017 a public hearing with regard to the granting of the requested special use permit was held before the City's Zoning Board of Appeals, following publication of the required notice of hearing in compliance with the City's Zoning Code requirement and on Wednesday, March 22, 2017 the City's Zoning Board of Appeals recommended that the special use permit requested by the Applicant be allowed by the City's City Council;

WHEREAS, Subsection 17.40.010 (pertaining to issuance of special use permits) of the City's Zoning Code provides and requires that the concurring vote of a majority of the Mayor and the City Aldermen shall be required for the authorization of the Special Use Permit; and, approval of the special use permit application shall require the affirmative finding of the City's City Council that:

(A) That the proposed special use is to be located in a district wherein such use may be permitted; and,

(B) the requirements set forth in Figure 1 of Section 17.40.010 of the City's Zoning Code for such special use exception will be met; and,

(C) the special use exception is consistent with the spirit, purpose and intent of the Comprehensive Community Plan, will not substantially and permanently injure the appropriate use of neighboring property, and will serve the public convenience and welfare;

WHEREAS, on Monday, April 10, 2017 a public meeting was held in regard to the granting of the requested special use permit before the City Council's Committee of the Whole and on Monday, April 10, 2017 the City Council's Committee of the Whole recommended conditional approval of the special use permit request contingent upon the applicant submitting a maintenance and access agreement of record established between both adjoining properties having the Tax Identification Numbers 04-17-481-024-000 (Columbia Centre Market Place INC.) and 04-17-481-014-000 (Faith Evangelical Lutheran Church of Oakville) with the applicants;

WHEREAS, if the special use permit application is approved by the City Council the Building official shall thereafter issue a zoning certificate for the special use exception;

WHEREAS, the City Council of the City has found and determined and does hereby declare that the affirmative findings of the City Council required by Section 17.40.010 (a), (b) and (c) of the City's Zoning Code and described above have been established by the Applicant and have been found to exist; and, that it is necessary and appropriate that a Conditional Approval for the Special Use Permit requested by the Applicant be authorized as is made and provided for in this Ordinance.

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Columbia, Illinois, as follows:

**Section 1.** The recitals contained above in the preamble of this Ordinance are hereby incorporated herein by reference, the same as if set forth in this Section of this Ordinance verbatim, as findings of the City Council of the City of Columbia, Illinois.

**Section 2.** The City Council of the City of Columbia, Illinois does hereby find, determine and declare:

(A) That the proposed Special Use Exception is to be located in a zoned district where such use may be permitted by Special Use Permit;

(B) That the special use requirements as set forth in Figure 1 of Section 17.40.010 of the City's Zoning Code, which are hereinafter described in the next Section of this Ordinance, shall be complied with after issuance of the Special Use Permit and shall be specified in the Special Use Permit upon its issuance; and,

(C) That the Special Use Exception is consistent with the spirit, purpose and intent of the Comprehensive Community Plan of the City, will not substantially or permanently injure the appropriate use of the neighboring property, and will serve the public convenience and welfare subject to the following items being submitted to the City of Columbia for review and approval:

a. Permanent maintenance and access agreement of record established between both adjoining properties having the Tax Identification Numbers 04-17-481-024-000 (Columbia Centre Market Place INC.) and 04-17-481-014-000 (Faith Evangelical Lutheran Church of Oakville) with the applicants;

**Section 3.** As a condition for the issuance of the Special Use Permit involved herein, the Applicant will be required to comply with the following Figure 1 Special Use Exceptions and Requirements of Section 17.40.010 (Special use exceptions, requirements and procedures) of Chapter 17.40 (SPECIAL USES) of the City of Columbia, Illinois Municipal Code:

- a. Classifications of Use Permitted.
  - 2. Local business
- b. Minimum Lot Area.
  - 1. #  
None
- c. Minimum Yards (Feet).

Front	Side (each)	Rear
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1. # # #

A. Front Yard. No front yard shall be required when all frontage between two intersecting streets lies within this district. However, when lots within this district are adjacent to and adjoining lots in an R district, all of which front upon the same street between the two intersecting streets, there shall be established the same front yard setback for all of the frontage as has been established in the abutting R district.

B. Side Yard. No side yard shall be required, except for a corner lot which abuts upon an R district, or upon an alley separating this district from an R district. There shall then be provided a side yard equal to one-half of the front yard required in the abutting R district, but in no case, more than ten feet. The same setback shall apply also if business buildings front the intersecting street, commonly referred to as the side street.

C. Rear Yard. There shall be a rear yard of not less than twenty (20) feet; provided, however, that a one-story accessory building may be located thereon, except for the five feet adjacent and parallel to the rear lot line or alley line, for the parking of motor vehicles and the unloading and loading of vehicles under roof.

f. Minimum Gross Floor Area of Principal Building(s)--(Square Feet).

1. #

None

g. Plan of Landscape Development to be submitted with application.

h. Maximum Height of Structure--(Feet).

1. #

The height of all buildings or structures shall be determined by the average ground elevation at the building perimeter plus forty (40) feet.

j. Screen Planting Where Abutting Residential Use--(Tight Screen, Effective at All Times).

1. 6-foot height by 6-foot width

3. 8-foot height by 6-foot width

l. Distance of Parking Area from Residential Use (Feet).

1. 10

2. 25

o. Plat approved by the City Council to be submitted with application.

p. Development Plan to be submitted with application.

- q. Covenant by Owners to Perpetuate Maintenance and Approve Future Improvements.
- r. Maximum Number of Principal Entrances from Major Thoroughfare.  
2. 2
- s. Acceptable Relationship to Major Thoroughfare.
- t. Thoroughfares Must be Adequate to Carry Additional Traffic Engendered by Use.
- u. Other Authority Approval Required.  
1. State Board of Health
- w. Disposal of Liquid and Other Wastes Shall Meet the Approval of the Pertinent Health Authorities.
- x. No Sales, Dead Storage, Repair Work, or Dismantling on the Lot.

**Section 4.** The Special Use Permit Applicants, Bart Berneking and Brad Eaton, shall be granted approval for a Special Use Permit for a restaurant, drive-thru type, at the property with a Tax Identification Number 04-17-481-026-000 in the City, subject to compliance with the requirements set forth in Section 3 of this Ordinance.

**Section 5.** The City's Building Commissioner is hereby ordered and directed to withhold the Zoning Certificate for the subject property until Special Use Exceptions described in Section 3 and the conditions described in Section 2 (C)(a) of this Ordinance have been met;

**Section 6.** This Ordinance shall be in full force and effect from and after its passage, as provided by law.

Alderman Reis moved the adoption of the above and foregoing Ordinance; the motion was seconded by Alderman Martens, and the roll call vote was as follows:

YEAS: Aldermen Ebersohl, Agne, Niemietz, Roessler, Reis, Holtkamp and Martens.

NAYS: None.

ABSENT: Alderman Huch.

ABSTENTIONS: None.

PASSED by the City Council and APPROVED by the Mayor this 17th day of April, 2017.

  
KEVIN B. HUTCHINSON, Mayor

ATTEST:

  
WESLEY J. HOEFFKEN, City Clerk

(SEAL)