

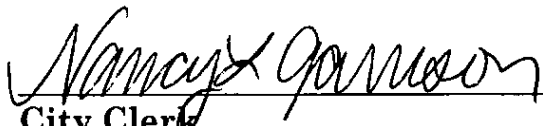
City of St. Charles, Illinois

Ordinance No. 2006-Z-7

An Ordinance Amending Special Use Ordinance 1999-Z-11 (Second Amendment to Bricher Commons PUD)

**Adopted by the
City Council
of the
City of St. Charles
March 20, 2006**

**Published in pamphlet form by
authority of the City Council
of the City of St. Charles,
Kane and Du Page Counties,
Illinois, March 24, 2006**



City Clerk



ORDINANCE NO. 2006-Z-7_____

AN ORDINANCE AMENDING SPECIAL USE ORDINANCE 1999-Z-11

(Second Amendment to Bricher Commons PUD)

WHEREAS, a petition to amend Ordinance No. 1999-Z-11 entitled “An Ordinance Granting a Special Use as a Planned Unit Development (Bricher Commons PUD)” (hereinafter, Ordinance 1999-Z-11) with respect to the real estate described in Exhibit “D-I” attached hereto and made a part hereof, (hereinafter sometimes referred to as the “Subject Property”), has been filed by DGT, LLC, owner, and James Saloga, applicant; and

WHEREAS, said petition requested that Ordinance 1999-Z-11 be amended to include residential and commercial uses as illustrated in the Concept Plan, attached hereto as Exhibit “D-IV” and made a part hereof; and

WHEREAS, the Plan Commission has held a public hearing on said petition in accordance with law; and

WHEREAS, the City Council of the City of St. Charles has received the recommendation of the Plan Commission and has considered same; and

WHEREAS, the City of St. Charles (“CITY”) and OWNER have entered into an Annexation Agreement dated July 19, 1999 entitled “ANNEXATION AGREEMENT (BRICHER COMMONS/DGT PARTNERSHIP)”, and a First Amendment thereto dated November 15, 1999 entitled “FIRST AMENDMENT TO AN ANNEXATION AGREEMENT (BRICHER COMMONS/DGT PARTNERSHIP)”, and a Second Amendment thereto dated March 20, 2006 entitled “SECOND AMENDMENT TO ANNEXATION AGREEMENT (BRICHER COMMONS PUD)” (hereinafter collectively, the “Annexation Agreement”); and

WHEREAS, the City Council of the City of St. Charles hereby makes the following findings:

FINDINGS OF FACT FOR SPECIAL USE:

1. *That the establishment, maintenance or operation of the Special Use will not be detrimental to or endanger the public health, safety, comfort or general welfare.*

The concept plan shows commercial uses along Rt. 38 and portions of Bricher Road, which will be compatible with neighboring uses to the north and east. The residential use will be compatible with similar uses to the south. The site will be developed in an orderly manner, and not be detrimental to or endanger public health, safety, comfort or general welfare.

2. *That the special use will not be injurious to the use and enjoyment of the property in the immediate vicinity for the purposes already permitted, nor substantially diminish or impair property values within the neighborhood.*

The Special Use will compliment other retail activity to the north and east. The Fairground property to the north is anticipated to be developed for retail uses along Rt. 38 as well. The proposed use is not anticipated to negatively impact surrounding property values.

3. *That the establishment of the Special Use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.*

Meijer and Lowes are already in existence, to the east. The property to the south is also already developed for residential use (in Geneva). The commercial use proposed along Rt. 38, will also compliment the development of Fairground property to the north. The county judicial facility land use to the west is already in existence, as well.

4. *That adequate utilities, access roads, drainage and/or necessary facilities have been, or are being, provided.*

Water, sewer, utilities and roadways will be provided in accordance with the City's requirements. Bricher Road is intended to be improved via an intergovernmental agreement between the City of St. Charles and the City of Geneva. If the 4-acre accessible living site proceeds first, the roadways, utilities, and other issues will need to be addressed upfront, regardless of when the remainder of the site develops.

5. *That adequate measures have been, or will be taken to provide ingress and egress so designed as to minimize traffic congestion in public streets.*

The access to the north off of Rt. 38 will need to be coordinated with the Fairground property's plans and the access off of Bricher Road will need mutual approval from the City of Geneva. The improvements of Rt. 38 and Bricher Road will ease traffic congestion on both streets.

6. *That the Special Use shall, in all other respects, conform to the applicable regulations of the district in which it is located except as such regulations may in each instance be modified by the City Council pursuant to recommendations of the Plan Commission.*

The Planned Unit Development will conform to all applicable regulations of the underlying zoning districts for the respective uses, except as might otherwise be modified upon review of Preliminary PUD plans and final plats.

FINDINGS OF FACT FOR PLANNED UNIT DEVELOPMENT:

1. *In what respects the proposed plan is consistent with the stated purpose of the planned unit development regulations:* The plan will permit the development of the site for retail, office, residential, and other uses in a coordinated manner.
2. *The extent to which the proposed plan meets the requirements and standards of the planned unit development regulations:* The Special Use provides for submittal and review of a plan for roads and utilities for the entire site, which will serve to coordinate utilities and access to the various components of the development.
3. *The extent to which the proposed plan departs from the zoning and subdivision regulations otherwise applicable to the subject property including, but not limited to, density, dimension, area, bulk, and use, and the reasons why such departures are deemed to be in the public interest:* The development standards appended to the Special Use meet or exceed the requirements of the B3 zoning district; additional setbacks are required along Bricher Road and Route 38.
4. *The physical design of the proposed plan and the manner in which the design does make adequate provision for public services, provides adequate control over vehicular traffic, provides for and protects designated and common open space, and furthers the amenities of light and air, recreation and visual enjoyment:* These matters will be determined at the time of submittal of a Preliminary Plan of PUD, which is required prior to approval the development of any site.
5. *The relationship and compatibility of the proposed plan to the adjacent properties and neighborhood.* Most of the surrounding development is large-scale, nonresidential development, including “big box” retail and county government; the remainder, to the south, is residential. Providing for a mix of uses will allow the PUD Plan to be designed so that compatible uses are placed appropriately.
6. *The desirability of the proposed plan to physical development, tax base and economic well-being of the city:* The commercial component will support the tax base and economic well being of the City, and the affordable housing component will serve a variety of needs including providing different housing types that are affordable and accessible to people with various disabilities.
7. *The conformity with the recommendations of the comprehensive plan of the city:* The commercial component allows for office use in accordance with the future land use

map, and the residential component will facilitate the development of affordable housing within a residential neighborhood.

8. *The conformity with all existing federal, state and local legislation and regulation:*
The development has not requested variances or exemptions from any federal, state or local regulations.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ST. CHARLES, KANE AND DUPAGE COUNTIES, ILLINOIS, as follows:

SECTION 1. That Ordinance 1999-Z-11 is hereby amended by deleting its provisions in their entirety, and by substituting the provisions hereof, governing the Special Use as a Planned Unit Development for the Subject Property.

SECTION 2. That a Special Use as a Planned Unit Development in the B-3 Service Business District is hereby granted for the Subject Property, subject to the conditions, restrictions and requirements contained herein.

SECTION 3. That the Real Estate may be developed only in accordance with all ordinances of the CITY as now in effect or hereafter amended (except as specifically varied herein or as otherwise provided in the Annexation Agreement), and in accordance with the additional procedures, definitions, uses, and restrictions contained herein and set forth in Exhibits "D-II" and "D-III", all as attached hereto and made a part hereof, all of which shall survive the expiration of the Annexation Agreement. The development of the Subject Property shall further be subject to the following additional conditions:

- A. The further development of the Subject Property is, in addition to the requirements of this Section, further expressly made conditioned upon the submittal, and the CITY'S approval, of appropriate Preliminary and Final Plans of planned unit development as required by Section 17.42.080 of the St. Charles Municipal Code or such other similar rules and regulations duly adopted by the CITY from time to time.
- B. Notwithstanding the requirements of Section 17.42.080 (B)(3)(b) of the St. Charles Municipal Code, a Special Use as a Planned Unit Development may be granted for the Subject Property upon the filing of a Concept Plan, prior to the filing and approval of a Preliminary Plan, which Concept Plan is attached hereto

as Exhibit "VIII" to Exhibit "B" (hereinafter, the "Concept Plan"). Such Concept Plan approval shall not be construed as approval of a preliminary plan, preliminary plat, preliminary engineering, or final engineering under any provision of Illinois law or CITY ordinance.

- C. Subject to the requirements of Paragraph E, but only to the extent that residential uses are depicted thereon, Preliminary and Final Plans of planned unit development may be submitted for any part of the Subject Property to be developed with those permitted and special uses allowed in the B-3 Service Business District which are identified on Exhibit "D-III" attached hereto (which is the same as Exhibit IV of Ordinance 1999-Z-11), said uses being permitted uses anywhere upon the Subject Property.
- D. Where residential uses are proposed that are not permitted as a matter of right within the B-3 Service Business District but which are allowed by virtue of the Planned Unit Development approval granted herein, the OWNER shall be required to apply for a map amendment for the parcel within which such uses(s) are to be located, seeking rezoning to the zoning district classification in which these uses are otherwise allowed as a matter of right.
- E. Any Preliminary Plan that includes residential uses shall delineate all areas of the Subject Property that will be developed for residential use. Further, said Preliminary Plan shall identify the dwelling units within the Subject Property that are proposed to be offered as "affordable", as defined in paragraph F.3. below.
- F. The right to develop any part of the Subject Property with residential uses shall be subject to these further, additional, conditions and restrictions:
 1. In no event shall more than 34.5 acres of the Subject Realty be developed for residential uses.
 2. Subject to any permissible "density bonus" adjustment as set forth below, the maximum overall residential density within that part of the Subject Property that is zoned to permit residential uses and for which a Preliminary Plan of planned unit development has been approved, shall be limited to 7.25 dwelling units per gross acre. For example, if 34.5 acres of the Subject Property is developed for residential uses, 250 dwelling units would be permitted. Varying densities may be developed throughout the site provided that the overall density within the residential acreage of the Subject Property shall not exceed 7.25 dwelling units per gross acre.
 3. Twenty percent (20%) of the total number of residential units permitted within the Subject Property shall be offered as "affordable" for-sale or rental units. (An affordable housing unit is defined as priced affordable to a household at or below 80% of Chicago region area median income (AMI) as defined by HUD for 'for-sale' units and at or below 60% of the AMI for rental units.) The ordinance granting approval of the Preliminary and/or Final Plan of planned unit development shall contain conditions suitable for the

enforcement of this requirement and the CITY may require a notation of this requirement on any plat reflecting the approval of such Preliminary and/or Final Plan.

4. A “density bonus” shall be allowed for affordable housing units offered in excess of the twenty percent (20%) minimum requirement set forth herein. For each affordable housing unit offered in excess of the twenty percent (20%) minimum, an additional market rate unit shall be allowed. Thus, if 34.5 acres of the Subject Property are developed for residential use, the total number of dwelling units may be increased from 250 units to 350 units, if 100 of these are affordable as defined herein.
 5. All affordable units shall be dispersed throughout the parcel they are proposed in, and be essentially similar to the market-rate units in size and exterior appearance within that development. Notwithstanding the foregoing, but otherwise in accordance with this Section, a maximum of 48 accessible dwelling units, which may also be affordable, may be constructed as the only type of development on approximately 4 gross acres, anywhere on the site. As used herein, the term “accessible” dwelling units shall mean and refer to dwelling units which are accessible within the meaning of “units that are either accessible or adaptable for accessibility as defined by the Americans with Disabilities Act”.
- G. At the time of the submittal of an application for the approval of the first Preliminary Plan of Planned Unit Development, the applicant shall submit a plan that shall be subject to the CITY’S review and approval, making acceptable provision for the location and, as appropriate, the dedication of all road improvements, rights-of-way and public access to collector and arterial roadways servicing the Subject Property together with all other improvements generally identified as “Land Improvements” in the CITY’S Subdivision Control regulations. Included within this obligation shall be all detention, water, sewer and electrical utility improvements as well as any other utility or engineering issues the design, installation and dedication of which, in the CITY’S reasonable judgment, are needed to properly provide for the overall design of the Subject Property.
- H. All buildings and structures proposed to be developed for uses permitted in the B-3 Service Business District shall incorporate external materials and features in substantial conformity with the requirements of the underlying zoning district in effect at the time of submittal of a planned unit development Preliminary Plan.
- I. The OWNER, or its successors and assigns, shall comply with Chapter 16.32 of the St. Charles Municipal Code regarding dedication of school and park sites or cash in lieu thereof. OWNER understands that, based on the Concept Plan and the potential development of 250 dwelling units, the St. Charles Park District has requested, and that the CITY may require, a 5.75 acre “high and dry” park site which shall conform to the District’s requirements. Additionally, the OWNER, or

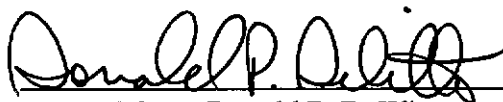
its successors and assigns, shall provide a sidewalk/bike trail along the frontage of the Subject Property, on the north side of Bricher Road, either within the right of way or within an easement granting public access and use.

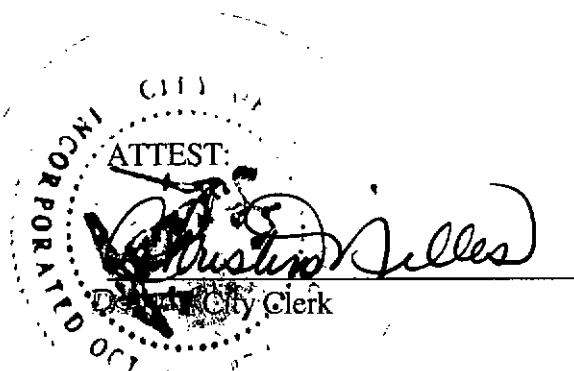
SECTION 4. That this ordinance shall become effective from and after its passage and approval in accordance with law.

PRESENTED to the City Council of the City of St. Charles, Kane and DuPage Counties, Illinois this 20 day of March, 2006.

PASSED by the City Council of the City of ST. Charles, Kane and DuPage Counties, Illinois this 20 day of March, 2006.

APPROVED by the Mayor of the City of St. Charles, Kane and DuPage Counties, Illinois this 20 day of March, 2006.


Mayor Donald P. DeWitte



COUNCIL VOTE: _____
AYES: 9
NAYS: _____
ABSENT: _____
ABSTAIN: 1

LIST OF EXHIBITS:

1. EXHIBIT “D-I” Legal Description
2. EXHIBIT “D-II” Development Standards and Design Criteria
3. EXHIBIT “D-III” B-3 Uses
4. EXHIBIT “D-IV” Concept Plan

EXHIBIT "D-I"

Legal Description

North Half of Bricher Commons

Situate in Section 32, Township 40 North, Range 8 East of the Third Principal Meridian, City of St. Charles, County of Kane, State of Illinois, and being part of a tract of land conveyed to Firstar Bank Illinois, Trust 2640 as recorded in Document No. 2000K (all references to deeds, microfiche, plats, surveys, etc. refer to the records of the Kane County Recorders Office, unless noted otherwise), and being more particularly bounded and described as follows:

Commencing for reference at an iron monument (found) at the southwest corner of the southeast Quarter of said Section 32, said corner also being the southwest corner of a tract of land conveyed to Firstar Bank of Geneva, Successor Trustee to the First National Bank of Geneva, as Trust No. 2640 as recorded in Document No. 1884216;

thence along the west line of the southeast Quarter of said Section and the west line of said Firstar Trust land, North zero degrees thirteen minutes six seconds West ($N00^{\circ}13'06''W$) for one thousand sixty-eight $43/100$ feet ($1068.43'$) to the northwest corner of said Firstar Trust land and the **TRUE POINT OF BEGINNING** of the herein described tract of land (witness a chiseled cross (found) in a stone, South twenty-six degrees fifty-seven minutes West ($S26^{\circ}57'W$) for two and $29/100$ feet ($2.29'$) from said corner);

thence continuing along the west line of the southeast Quarter of said Section, North zero degrees thirteen minutes six seconds West ($N00^{\circ}13'06''W$) for nine hundred ninety-three and $28/100$ feet ($993.28'$) to a $3/4$ inch iron pipe (found) in the south right-of-way line of Illinois Route 38 (F.A. Route 7) as recorded in Document No. 1032211;

thence along the south right-of-way line of said Illinois Route 38, for the following two (2) courses:

1. North eighty-seven degrees four minutes three seconds East ($N87^{\circ}04'03''E$) for five hundred seven and $84/100$ feet ($507.84'$) to a point of curvature (witness a broken concrete monument, North 80 degrees West ($N80^{\circ}W$) for two and $3/10$ feet ($2.3'$) from said corner;
2. on a curve to the right with a radius of three thousand four hundred forty-eight and $02/100$ feet ($3448.02'$) for an arc distance of six hundred ninety and $87/100$ feet ($690.87'$), [chord bearing South eighty-seven degrees eleven minutes thirty-three seconds East ($S87^{\circ}11'33''E$) for six hundred eighty-nine and $71/100$ feet ($689.71'$), delta angle of said curve being eleven degrees twenty-eight minutes forty-nine seconds ($11^{\circ}28'49''$)];

thence departing the south right-of-way line of said Illinois Route 38, on a new division line for the following five (5) courses:

1. South nine degrees nine minutes eighteen seconds West ($S09^{\circ}09'18''W$) for three hundred forty-one and $08/100$ feet ($341.08'$);
2. South eighty-eight degrees twenty-six minutes thirty-five seconds West ($S88^{\circ}26'35''W$) for eighty-nine and $24/100$ feet ($89.24'$);
3. South no degrees eight minutes forty-nine seconds East ($S00^{\circ}08'49''E$) for two hundred ninety-eight and $39/100$ feet ($298.39'$);
4. South forty-eight degrees one minute ten seconds West ($S48^{\circ}01'10''W$) for three hundred eighteen and $40/100$ feet ($318.40'$);
5. South thirty-eight degrees twenty-two minutes fourteen seconds East ($S38^{\circ}22'14''E$) for one hundred forty and $81/100$ feet ($140.81'$) to a point in the north line of said Firststar Trust land;

thence along the north line of said Firststar Trust land, South eighty-eight degrees twenty-six minutes sixteen seconds West ($S88^{\circ}26'16''W$) for nine hundred and $62/100$ feet ($900.62'$) to the TRUE POINT OF BEGINNING

Excepting therefrom the following described parcel.

PARCEL ONE:

THAT PART OF THE SOUTHEAST QUARTER OF SECTION 32, TOWNSHIP 40 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS, COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF SECTION 32, SAID CORNER ALSO BEING THE SOUTHWEST CORNER OF A TRACT OF LAND CONVEYED TO FIRSTSTAR BANK OF GENEVA, SUCCESSOR TRUSTEE TO THE FIRST NATIONAL BANK OF GENEVA, AS TRUST NO. 2640 AS RECORDED IN DOCUMENT NO. 1884216, THENCE NORTH 00 DEGREES, 13 MINUTES, 06 SECONDS WEST ALONG THE WEST LINE OF SAID SOUTHEAST QUARTER OF SAID SECTION OF SAID FIRSTSTAR TRUST LAND 1068.42 FEET TO THE NORTHWEST CORNER OF SAID FIRSTSTAR TRUST LAND, THENCE CONTINUING NORTH 00 DEGREES, 13 MINUTES, 06 SECONDS WEST ALONG SAID WEST LINE 993.28 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF ILLINOIS ROUTE 38 (F.A. ROUTE 7) AS RECORDED IN DOCUMENT NO. 1032211, THENCE NORTH 87 DEGREES, 04 MINUTES, 03 SECONDS EAST ALONG SAID SOUTH RIGHT-OF-WAY LINE 507.84 FEET TO A POINT OF A CURVATURE, THENCE ON THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 3448.02 FEET, CHORD BEARING NORTH 89 DEGREES, 54 MINUTES, 58 SECONDS EAST, 342.87 FEET FOR A POINT OF BEGINNING, THENCE SOUTH 00 DEGREES, 13 MINUTES, 06 SECONDS EAST, 373.92 FEET, THENCE NORTH 88 DEGREES, 26 MINUTES, 35 SECONDS EAST, 291.38 FEET, THENCE NORTH 09 DEGREES, 09 MINUTES, 18 SECONDS EAST, 336.08 FEET TO SAID SOUTH RIGHT-OF-WAY LINE OF STATE ROUTE 38, THENCE WESTERLY ALONG SAID SOUTH RIGHT-OF-WAY LINE, ON THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 3448.02 FEET 347.99 FEET SAID ARC HAVING A DELTA ANGLE OF 05 DEGREES, 46 MINUTES, 57 SECONDS TO THE POINT OF BEGINNING, IN THE CITY OF ST. CHARLES, KANE COUNTY, ILLINOIS.

Legal Description

South Half of Bricher Commons

Situate in Section 32, Township 40 North, Range 8 East, of the Third Principal Meridian, City of St. Charles, County of Kane, State of Illinois, and being part of a tract of land conveyed to the Firststar Bank of Geneva, Successor Trustee to the First National Bank of Geneva, as Trust Number 2640 as recorded in Document Number 1884216 (now Firststar Bank Illinois, Trust 2640) (all references to deeds, microfiche, plats, surveys, etc. refer to the records of the Kane County Recorders Office, unless noted otherwise) and being more particularly bounded and described as follows:

Beginning at an iron monument (found) at the southwest corner of the southeast quarter of said Section 32;

thence along the west line of the southeast quarter of said Section 32, North zero degrees thirteen minutes six seconds West ($N00^{\circ}13'06''W$) for one thousand sixty-eight and $43/100$ feet (1068.43') to the southwest corner of a tract of land conveyed to Meijer, Inc. as recorded in Document No. 1999K032600 (witness a chiseled cross (found) in a stone, South twenty-six degrees fifty-seven minutes West ($S26^{\circ}57'W$) for two and $29/100$ feet (2.29') from said corner);

thence departing the west line of said Quarter Section, and along the south line of said Meijer, Inc. land, North eighty-eight degrees twenty-six minutes sixteen seconds East ($N88^{\circ}26'16''E$) for one thousand three hundred fifty-three and $30/100$ feet (1353.30');

thence departing the south line of said Meijer, Inc land, and over said Firststar Trust land, South one degree thirty-three minutes twenty-five seconds East ($S01^{\circ}33'25''E$) for one thousand sixty-eight and $11/100$ feet (1068.11') to the south line of said Section 32;

thence along the south line of said Section 32, South eighty-eight degrees twenty-six minutes twelve seconds West ($S88^{\circ}26'12''W$) for one thousand three hundred seventy-eight and $26/100$ feet (1378.26') to the point of beginning,

EXHIBIT D-II

**DEVELOPMENT STANDARDS AND DESIGN CRITERIA
BRICHER COMMONS PUD**

1) Retail and Service Development: That part of the Bricher Commons PUD to be developed for retail and service uses shall be subject to the following standards:

a) Permitted Uses:

1. Accessory uses;
2. Amusement establishments, including bowling alleys, pool halls, dancehalls, gymnasiums, swimming pools and skating rinks;
3. Antique shops;
4. Art and school supply stores;
5. Art galleries;
6. Auction rooms;
7. Audio recording sales and rentals;
8. Automobile accessory stores;
9. Automotive vehicle and automotive equipment sales;
10. Bakeries, where not more than fifty percent of the floor area is devoted to processing, and not employing more than eight persons;
11. Banks and financial institutions;
12. Barbershops;
13. Beauty parlors;
14. Bicycle stores, sales, rental, and repair;
15. Blueprinting and photocopying establishments;
16. Book and stationery stores;
17. Building material sales, with accessory outside storage, provided outside storage does not exceed sixteen feet in height;
18. Camera and photographic supply stores;
19. Candy and ice cream stores;
20. Carpet and rug stores;
21. Caskets and casket supplies;
22. Catering establishments;
23. China and glassware stores;
24. Clothing establishments;
25. Clubs and lodges, private, fraternal, or religious;

26. Coin and philatelic stores;
27. Contractors' and construction offices;
28. Currency exchanges;
29. Custom dressmaking;
30. Department stores;
31. Drugstores;
32. Dry goods stores;
33. Dry-cleaning and laundry-receiving establishments, (processing to be done elsewhere);
34. Dry-cleaning establishments, retail, employing not more than five persons;
35. Electrical and household appliance stores, including radio and television sales;
36. Employment agencies;
37. Exterminating shops;
38. Feed stores;
39. Fire stations;
40. Flower shops;
41. Food stores, including grocery stores, meat markets, bakeries, and delicatessens, (retail sales only);
42. Frozen food shops, including locker rental in conjunction therewith;
43. Fuel and ice sales, retail only;
44. Furniture stores, including upholstery when conducted as part of the retail operation and secondary to the principal use.
45. Furrier shops, including the incidental storage and conditioning of furs;
46. Garden supply and seed stores;
47. Gift shops;
48. Greenhouses;
49. Haberdasheries;
50. Hardware stores;
51. Hobby shops, for retailing of items to be assembled or used away from the premises;
52. Hotels, including dining and meeting rooms; provided, that business uses, other than those which are commonly incidental to a hotel business, shall not occupy space fronting on a hotel hall or lobby;
53. Interior decorating shops, including upholstery and making of draperies, slip covers, and other similar articles when conducted as part of the retail operations and secondary to the principal use;
54. Jewelry stores, including watch repair;
55. Job printing shops, using presses having beds of not more than fourteen inches and twenty inches;

56. Laboratories, medical and dental, also research and testing;
57. Landscape contractors;
58. Laundries, automatic self-service type or hand, employing not more than two persons in addition to one owner or manager;
59. Leather goods and luggage stores;
60. Libraries;
61. Liquor stores, retail sales;
62. Loan offices;
63. Locksmith shops;
64. Machinery and equipment sales, but not including service, repair, or reconditioning and storage of all machinery shall be within enclosed buildings;
65. Mail order houses;
66. Mail order service stores;
67. Meat markets, including the sale of meat and meat products to restaurants, motels, clubs and other similar establishments when conducted as part of the retail business on the premises;
68. Medical and dental clinics;
69. Meeting halls;
70. Millinery shops;
71. Monument sales;
72. Motels;
73. Musical instrument sales and repair;
74. Newspaper offices, but not including printing;
75. Nurseries;
76. Office supply stores;
77. Offices, business, professional, and public;
78. Opticians and optometrists;
79. Orthopedic and medical appliance stores, but not including the assembly or manufacture of such articles;
80. Other accessory uses: Communication antennas.
81. Paint and wallpaper stores;
82. Parking lots and storage garages (automobile);
83. Pet shops;
84. Photography studios, including developing and printing of photographs when conducted on the premises as a part of the retail business;
85. Physical culture and health services, gymnasiums, reducing salons, masseurs, and public baths;
86. Picture framing, when conducted on the premises for retail trade;

87. Plumbing showrooms and shops;
88. Police stations;
89. Post offices;
90. Radio and television broadcasting studios;
91. Radio and television service and repair shops;
92. Recording studios;
93. Recreational buildings, community centers, and meeting halls;
94. Restaurants, including live entertainment and dancing;
95. Restricted production and repair limited to the following: art needlework, clothing, custom manufacturing and alterations for retail only of jewelry from precious metals and watches;
96. Schools, commercial or trade, not involving any danger of fire, explosion, nor of offensive noise, vibration, smoke, dust, odor, glare, heat, or other objectionable influences;
97. Schools, music, dance, or business;
98. Secondhand stores and rummage shops;
99. Sewing machine sales and services, household machines only;
100. Shoe and hat repair stores;
101. Shoe and hat repair stores;
102. Shoe stores;
103. Shoe stores;
104. Shoe stores;
105. Sporting goods stores;
106. Tailor shops;
107. Taverns and cocktail lounges;
108. Taxidermists;
109. Telegraph offices;
110. Telephone exchanges and telephone transmission equipment buildings and electric distribution centers;
111. Temporary buildings for construction purposes for a period not to exceed the duration of such construction;
112. Tobacco shops, retail sales;
113. Toy shops;
114. Travel bureaus and transportation ticket offices;
115. Typewriter and adding machine sales and service establishments;
116. Undertaking establishments and funeral parlors;
117. Variety stores;
118. Vehicle Service Facilities.

119. Video recording sales and rental;
120. Wearing apparel shops;
121. Wholesale establishments, with storage of merchandise limited to samples only;

b) Special Uses:

1. Amusement game device arcade
2. Animal hospitals
3. Automobile laundries
4. Churches, convents, monasteries, theological schools, rectories and parish houses
5. Communication towers
6. Dog kennels
7. Drive-in establishments
8. Fairgrounds, including the location of the annual Kane County Fair and other activities that are permissible pursuant to the not-for-profit incorporation charter of the Kane County Fair, an Illinois not-for-profit corporation
9. Open sales lots
10. Outdoor amusement establishments, including golf driving ranges, miniature golf courses, par-three golf courses, kiddie parks, and other similar amusement centers and places of amusement such as stadiums
11. Pet shops
12. Theater, indoor
13. Warehouse for retail sales establishment and its sales facilities, provided the warehouse and any storage area does not exceed two hundred percent of the floor area for the retail sales establishment to which it is appended.

c) Floor Area Ratio: Maximum 0.20

d) Yards and setbacks:

1. Front Yard. There shall be provided a front yard of not less than ten feet in depth.
2. Side Yards. If a side yard is provided it shall not be less than five feet wide; except, where a side lot line coincides with a side lot line in an adjacent residence district, a yard shall be provided along such lot line. Such yard shall be equal in dimension to the minimum side yard which would be required under this title for a residential use on an adjacent residential lot. A side yard adjoining a street shall be not less than ten feet in width.

3. Rear Yard. There shall be provided a rear yard of not less than twenty feet in depth.
4. The minimum setback along Route 38 and Bricher Road shall be 25 feet for parking, driveways and buildings.

e) Signs:

1. Signs affixed to a building including those attached to walls, awnings and marquees: One sign is permitted on each building wall, awning or marquee; however, not more than two such signs are permitted per business or other use. The surface area of each such sign shall not exceed one and one half square feet for each linear foot of frontage of the wall on which the sign is located. In the case of a use which does not have an exterior wall frontage, the surface area of such sign shall not exceed one and one half percent (1.5%) of the floor area occupied by such use.
2. Freestanding Signs: One freestanding sign is permitted for the principal street frontage of each lot. (The principal street frontage shall be the frontage along the front lot line). One additional freestanding sign is permitted for each additional principal building on the lot, and one additional freestanding sign is permitted for each secondary street frontage of a corner lot. The first freestanding sign on the lot may have a maximum area in square feet of 1.5 times the linear frontage of the building or 100 square feet, whichever is less. Any additional sign(s) permitted due to additional street frontages may have a maximum area in square feet of 0.75 times the secondary linear frontage of the building or 50 square feet, whichever is less. Any additional sign(s) permitted due to additional buildings on the lot may have a maximum area in square feet of 0.75 times the linear frontage of the additional building or 50 square feet, whichever is less. Freestanding signs shall not exceed a maximum height of 15 feet above the street grade, as measured at a point on the street pavement closest to the sign.
3. Freestanding Sign Area for Shopping Centers: In a unified shopping center under single ownership or control on a site of four acres or more, the maximum area of the first freestanding sign on the lot may be increased from 100 square feet to 200 square feet or 1.5 times the linear frontage of the building, whichever is less.
4. Directional Signs: Directional signs may identify the use only by means of a logo, shape or color, but shall otherwise not include words identifying or advertising the use. One directional sign is permitted for each driveway access from a public street. One additional directional sign is permitted for each intersection of driveways within a site, to identify traffic routing, entrances,

and services such as drive-in lanes; such additional directional signs shall be set back from the street a minimum of 20 feet. A directional sign may have a maximum surface area of 5 square feet and shall not exceed a maximum height of 4 feet above the street or driveway grade, as measured at a point on the street or driveway pavement closest to the sign.

5. **Illumination:** Signs may be illuminated, but may not have flashing lights. Flashing lights are defined as any artificial lighting that changes intensity or color of illumination when the sign is in use, except for changes allowed on time and/or temperature signs as defined herein. Exterior signs shall be illuminated only during business hours or until 11:00 P.M., whichever is later. Sign lighting shall not be designed or directed so as to shine undiffused rays of light (either direct or reflected) into or upon any residential building or lot, or onto a public street. No sign in direct line of vision of a traffic signal shall be illuminated in red, green or amber color, so as to resemble a traffic signal.
6. **Corner Visibility:** Except for directional signs as permitted herein, no sign shall be erected or maintained to a height exceeding 30 inches above the elevation of the center of the street or driveway intersection, within any sight triangle. For purposes of this provision, a sight triangle includes: a) the triangle formed by two lines extending 20 feet from the street intersection along the right of way lines, and a third line connecting the ends of the other two; b) the triangle formed by two lines extending 20 feet from the intersection of the right of way line and the edge of a driveway pavement, along such right of way line and edge of pavement, and a third line connecting the ends of the other two; and c) the triangle formed by two lines extending 20 feet from the intersection of the pavement edges of two driveways, along such pavement edges, and a third line connecting the ends of the other two.
7. **Setbacks and Projections:** Except for directional signs as permitted herein, all freestanding signs shall be set back from the right of way a minimum of 10 feet. A sign attached to a wall shall not project more than 12 inches from the wall surface to which it is attached.
8. A sign attached to a building shall not project into the public way. A sign attached to a building shall not project higher than the building height.
9. **Time and Temperature Signs:** Time and temperature signs are permitted as freestanding signs or wall signs, and may be included as part of such signs, subject to the following:
 - a) A maximum area of 9.6 square feet for the time and temperature portion of the sign.

b) A time sign shall be permitted to change no more frequently than one minute intervals.

c) A temperature sign shall not change except when the temperature changes one degree.

d) Combination Time and Temperature Signs. Where the same display surface is used for both time and temperature, the two indications shall interchange not more frequently than two-second intervals.

e) The area of a time and/or temperature sign shall be considered as part of the area of the allowable signs on the building or lot, and so shall not be construed to change or increase any allowable sign area.

2) Office Research Development: That part of the Bricher Commons PUD to be developed for Office Research uses shall be subject to the following standards:

a) Permitted Uses:

1. Banks and financial institutions;
2. Business and professional offices;
3. Clubs and lodges, private, fraternal or religious
4. Computer and data processing centers
5. Design firms
6. Electronic and communications industries
7. Employment agencies
8. Engineering and testing laboratories and offices
9. Hotels, including restaurants, dining and meeting rooms
10. Laboratories, medical and dental
11. Laboratories, offices and other facilities for research, testing and development
12. Libraries
13. Loan offices
14. Medical and dental offices and clinics;
15. Municipal facilities, fire stations, police stations, public utilities;
16. Newspaper offices, not including printing
17. Opticians and optometrists
18. Parks and playgrounds
19. Pharmaceutical industries
20. Post office;
21. Production of prototype products

22. Public or private colleges, junior colleges, universities, professional training centers, trade schools, including dormitories and other accessory uses necessary to the operation of an institute of higher learning
23. Private, membership-only sport health clubs;
24. Recording and broadcasting studios
25. Recreational buildings, community centers, and meeting halls
26. Schools, commercial or trade, including those teaching music, dance, business, commercial or technical subjects;
27. Travel bureaus and transportation ticket offices
28. Veterinary clinics;
29. Accessory uses;

b) Special uses:

1. Restaurants (when not within a hotel);
2. Office supply stores;
3. Hospitals;
4. Motels;
5. Churches;
6. Nursery schools and day care centers;
7. Extended care or nursing homes.

c) Floor Area Ratio: Maximum of 0.40

d) Yards and setbacks:

1. A minimum twenty-five foot (25') setback shall be required from the Bricher Road right of way for parking, driveways, and buildings.
2. A minimum front yard of twenty-five feet (25') in depth, which shall be devoted entirely to landscaped area except for sidewalks and necessary paving of driveways to reach the building or parking areas, provided such driveways are generally perpendicular to the front lot line and do not exceed twenty-four feet (24') in width.
3. A minimum interior side yard of ten feet (10') which shall be devoted entirely to landscaped area.
4. A minimum side yard adjoining a street of twenty-five feet (25') which shall be devoted entirely to landscaped area except for paving of driveways and sidewalks needed to reach the building or parking areas.
5. A minimum rear yard of thirty feet (30').

e) Signs

Nonflashing but illuminated business signs with no moving parts (provided that time and/or temperature signs which change lights within a panel of stationary lights shall not be construed to be flashing or to have moving parts), awnings and marquees are permitted subject to regulations set forth elsewhere in the ordinances of the city and the following:

- 1) Where a sign is illuminated by light reflected upon it, direct rays of light shall not beam upon any part of any existing residential buildings, nor into a residence district, nor into a street. A sign in direct line of vision of a traffic signal shall not be in red, green or amber illumination.
- 2) The gross surface area in square feet of all signs on a lot or building shall not exceed two (2) times the number of linear feet of the building frontage; and each side of a building which abuts upon a street shall be considered as a separate frontage; and the gross area of all signs located on a side of a lot or building abutting a street shall not exceed the number of linear feet of such building frontage.
- 3) One (1) ground sign shall be permitted for each building on a lot, except that on a corner or through lot, a sign may be erected along each street frontage. A ground sign may not exceed eight feet (8') in height. A ground sign shall not be closer than ten feet (10') from a side or rear lot line; fifteen feet (15') from a front line; or three feet (3') from a driveway or parkway area.
- 4) A sign affixed to a building shall not project higher than the building height.
- 5) Time and/or temperature signs, in accordance with the following:
 - a. Construction. Time and/or temperature signs shall be constructed of incombustible material, including the frames, braces, and supports thereof.
 - b. Regulation of Size. Such time and/or temperature signs shall not be more than 9.6 square feet in area.
 - c. Requirements on Glass. Any glass forming a part of a clock of the sign thereon shall be safety glass, or plate glass at least one-fourth (1/4") thick, or an approved plastic securely held in place.

- d. **Cover or Service Opening To Be Secured.** Any cover or service opening of a time and/or temperature sign shall be securely fastened thereto by metal hinges.
- e. **Time Sign.** A time sign shall be permitted to change no more frequently than thirty-second intervals.
- f. **Temperature Sign.** A temperature sign shall not change except when the temperature changes one (1) degree.
- g. **Time and Temperature Sign Combination.** If the same surface area is provided for both time and temperature, the frequency of change shall be no more frequently than two-second intervals. If separate space is provided on the sign surface area for time and temperature, paragraphs a and e of this subdivision shall apply.
- h. **All time and/or temperature signs erected on the exterior of any building or structure shall comply with the requirements set forth in provisions on wall signs.**
- i. **No advertising shall be placed upon a time and/or temperature sign other than the name of the owner or a reference to the business, industry, or pursuit conducted within the premises to which the time and/or temperature sign is attached.**

EXHIBIT "D-III"

17.28.020 Permitted uses.

Permitted uses in a B3 district shall be as follows:

1. Uses permitted in the B2 district, except uses designated in Chapter 17.24 with an asterisk, may be located on the first story, nearer than fifty feet of a street;
2. Amusement establishments, including bowling alleys, pool halls, dancehalls, gymnasiums, swimming pools and skating rinks;
3. Auction rooms;
4. Automobile accessory stores;
5. Automotive vehicle and automotive equipment sales;
6. Blueprinting and photocopying establishments;
7. Building material sales, with accessory outside storage, provided outside storage does not exceed sixteen feet in height;
8. Caskets and casket supplies;
9. Catering establishments;
10. Clothing establishments;
11. Clubs and lodges, private, fraternal, or religious;
12. Contractors' and construction offices;
13. Employment agencies;
14. Exterminating shops;
15. Feed stores;
16. Fire stations;
17. Frozen food shops, including locker rental in conjunction therewith;
18. Fuel and ice sales, retail only;
19. Job printing shops, using presses having beds of not more than fourteen inches and twenty inches;

20. Landscape contractors;
21. Libraries;
22. Machinery and equipment sales, but not including service, repair, or reconditioning and storage of all machinery shall be within enclosed buildings;
23. Mail order houses;
24. Meat markets, including the sale of meat and meat products to restaurants, motels, clubs and other similar establishments when conducted as part of the retail business on the premises;
25. Meeting halls;
26. Monument sales;
27. Motels;
28. Nurseries;
29. Orthopedic and medical appliance stores, but not including the assembly or manufacture of such articles;
30. Parking lots and storage garages (automobile);
31. Pet shops;
32. Police stations;
33. Plumbing showrooms and shops;
34. Radio and television service and repair shops;
35. Recording studios;
36. Recreational buildings, community centers, and meeting halls;
37. Schools, commercial or trade, not involving any danger of fire, explosion, nor of offensive noise, vibration, smoke, dust, odor, glare, heat, or other objectionable influences;
38. Secondhand stores and rummage shops;
39. Signs as regulated in this chapter;
40. Taxidermists;
41. Telephone exchanges and telephone transmission equipment buildings and electric distribution centers;

- 42. Typewriter and adding machine sales and service establishments;
- 43. Undertaking establishments and funeral parlors;
- 44. Accessory uses to the permitted uses listed above in this section;
- 45. Vehicle Service Facilities.
- 46. Other accessory uses: Communication antennas.

17.28.030 Special uses.

Special uses in a B3 district shall be as follows:

- A. Special uses allowed in the B2 district, except such as are permitted in the B3 district;
- B. Animal hospitals;
- C. Automobile laundries;
- D. Dog kennels;
- E. Open-sales lots;
- F. Other service business uses, including coin-operated dry-cleaning establishments;
- G. Outdoor amusement establishments, including golf driving ranges, miniature golf courses, par-three golf courses, kiddie parks, and other similar amusement centers and places of amusement such as stadiums;
- H. Fairgrounds, including the location of the annual Kane County Fair and other activities that are permissible pursuant to the not-for-profit incorporation charter of the Kane County Fair, an Illinois not-for-profit corporation;
- I. Warehouse for retail sales establishment and its sales facilities, provided the warehouse and any storage area does not exceed two hundred percent of the floor area for the retail sales establishment to which it is appended.
- J. Communication towers.
- K. Outdoor live entertainment or amplified sound in conjunction with a restaurant, tavern or cocktail lounge. Such outdoor live entertainment shall not occur past 10:00 p.m. and shall not generate sound levels in excess of 60 dBA as measured from the property line in any residence district.

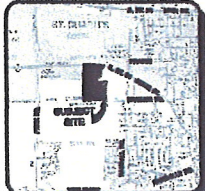
BRICHER ROAD COMMONS



EXHIBIT "D-IV"

- B-3**
- PROVIDE SERVICE & SPECIAL USE AREAS
 - PROVIDE SECURITY & DEFENSE
 - PROVIDE CANALS
 - PROVIDE FLOOD TOLERANT LANDSCAPING
 - PROVIDE FLOOD TOLERANT LANDSCAPING
 - PROVIDE FLOOD TOLERANT LANDSCAPING
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SITE DATA	AC	%
RESIDENTIAL (105-20 UNITS)	30.5 AC	56%
ACCESSIBLE LIVING (80-80 UNITS)	4.0 AC	7%
COMMERCIAL AREA	14.7 AC	27%
RETENTION	5.5 AC	10%
TOTAL AREA:	54.7 AC	100%



CONCEPT PLAN

4 of 5

SCALE IN FEET

NORTH

© 2003 The Lannert Group, Inc.

Lannert Group
Landscape Architects • Planning • Community Consulting

216 Fulton Street
Geneva, Illinois 60134

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lg@lannert.com

BATAVIA ENTERPRISES INC.

140 NORTH FIRST ST.
BATAVIA, IL 60010

(815) 875-2880
(815) 875-5654 (fax)

DATE: 11.21.03
REVISIONS:
DRAWN BY: TEL
NOT TO SCALE

State of Illinois)
)
) ss.
Counties of Kane and DuPage)

Certificate

I, NANCY GARRISON, certify that I am the duly elected and acting Municipal Clerk of the City of St. Charles, Kane and DuPage Counties, Illinois.


I further certify that on March 20, 2006, the Corporate Authorities of such municipality passed and approved Ordinance No. 2006-Z-7, entitled

"An Ordinance Amending Special Use Ordinance
1999-Z-11 (Second Amendment to Bricher Commons
PUD),"

which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. 2006-Z-7, including the Ordinance and a cover sheet thereof was prepared, and a copy of such Ordinance was posted in the municipal building, commencing on March 24, 2006, and continuing for at least ten days thereafter. Copies of such Ordinance were also available for public inspection upon request in the office of the municipal clerk.

DATED at St. Charles, Illinois, this 20 day of March 2006.


Municipal Clerk

