

**VILLAGE OF RIVER GROVE  
COOK COUNTY, ILLINOIS**

**ORDINANCE NO. 2021-36**

**AN ORDINANCE AMENDING THE SPECIAL USE PERMIT  
AND VARIATIONS/EXCEPTIONS FOR PROPERTY LOCATED AT  
2801 N. THATCHER AVENUE**

**(PIN 12-26-402-002-0000)**

**ADOPTED BY THE  
PRESIDENT AND THE BOARD OF TRUSTEES  
OF THE  
VILLAGE OF RIVER GROVE**

**THIS 18th DAY OF NOVEMBER, 2021**

---

**Published by authority of the President  
and Board of Trustees of the Village of  
River Grove, Cook County, Illinois this 18<sup>th</sup>  
day of November, 2021.**

**VILLAGE OF RIVER GROVE  
COOK COUNTY, ILLINOIS**

**ORDINANCE NO. 2021-36**

---

---

**AN ORDINANCE AMENDING THE SPECIAL USE PERMIT  
AND VARIATIONS/EXCEPTIONS FOR PROPERTY LOCATED AT  
2801 N. THATCHER AVENUE**

**(PIN 12-26-402-002-0000)**

---

---

**WHEREAS**, the Village of River Grove (the “Village”) is a home rule unit of local government as provided by Article VII, Section 6 of the Illinois Constitution of 1970; and

**WHEREAS**, the Village President and Board of Trustees of the Village (the “Corporate Authorities”) have adopted a zoning ordinance (the “Zoning Ordinance”), which has been amended from time to time; and

**WHEREAS**, MB Thatcher, LLC (“MB Thatcher” or the “Petitioner”), an Illinois limited liability company is the present owner of property commonly known as 2801 N. Thatcher Avenue in the Village; and

**WHEREAS**, in July 2020, the Village entered into a Redevelopment Agreement (“RDA”) with MB Thatcher to develop portions of property located at 2801 Thatcher Avenue (the “Thatcher Phase 1 Project”); and

**WHEREAS**, under the terms of that Redevelopment Agreement, the Corporate Authorities of the Village approved Ordinance 2020-16, which approved a Special Use Permit for a Planned Unit Development (“PUD”), which included a special use permit for a drive-through facility and related commercial building at 2801 N. Thatcher Avenue; and

**WHEREAS**, MB Thatcher desires to modify a portion of the Thatcher Phase 1 PUD for 2801 N. Thatcher Avenue in order to remove the commercial drive-through facility and building, and the Corporate Authorities have approved a new PUD in furtherance of this desire, which will allow for the development of one (1) eighteen (18) unit residential building with commercial space on the ground floor at this location, along with other development at 2725 N. Thatcher Avenue and 2722 N. Marwood Avenue (the “Thatcher Phase 2 Project”); and

**WHEREAS**, in furtherance of the Thatcher Phase 2 Project, on November 18, 2021, the Village entered into a new Redevelopment Agreement with MB Thatcher to redevelop the

these properties and an amendment to the Redevelopment Agreement to remove the obligation to develop and construct the commercial drive-through facility and building; and

**WHEREAS**, on October 12, 2021, the Village of River Grove Zoning Board of Appeals (the “ZBA”) voted to favorably recommend the approval of the PUD for the Thatcher Phase 2 Project, and said recommendation of the ZBA is incorporated into this Ordinance as **EXHIBIT A**; and

**WHEREAS**, on November 4, 2021, the Corporate Authorities approved Ordinance 2021-31, which approved the new PUD for the Thatcher Phase 2 Project; and assigned a new use to the portion of 2801 N. Thatcher Avenue that previously was to contain a commercial drive-through facility; and

**WHEREAS**, MB Thatcher has applied for and received approval by the Corporate Authorities of a new PUD that will supersede certain terms of the PUD approved under Ordinance 2020-16, and therefore the PUD approved under Ordinance 2020-16 must be amended to remove these unneeded terms; and

**WHEREAS**, Title 6, Chapter 4, Sections 6-4-4(F)(2)(c) of the Village Code provides that the Village Board shall consider all amendments to a PUD; and

**WHEREAS**, based upon the Corporate Authorities’ approval of the Thatcher Phase 2 Project PUD and RDA; the Corporate Authorities agree that the Thatcher Phase 1 PUD as approved under Ordinance 2020-16 must be amended.

**NOW THEREFORE, BE IT ORDAINED**, by the President and Board of Trustees of the Village of River Grove, County of Cook, State of Illinois, in open meeting assembled, that:

**Section 1.** The foregoing recital clauses are incorporated herein and adopted as the findings of fact by the Corporate Authorities of the Village of River Grove.

**Section 2.** That portions of the PUD approved under Ordinance 2020-16 relating to the commercial drive-through facility at 2801 N. Thatcher Avenue, Property Index Number 12-26-402-002-0000 are null and void as of the approval of this Ordinance, and are entirely superseded by the PUD granted to MB Thatcher under Ordinance 2021-31, and Ordinance 2020-16 is hereby amended as follows:

A.) That all references in Ordinance 2020-16 to a commercial drive-through facility shall be stricken.

B.) That the 16<sup>th</sup> through 18<sup>th</sup> “WHEREAS” statements in Ordinance 2020-16 shall be stricken in their entirety, as they relate solely to the special use granted to MB Thatcher, and are no longer relevant.

C.) That reference to a commercial drive-through facility in the initial portion of Section 3 and in Section 3(A) of Ordinance 2020-16 shall be stricken.

D.) That Section 3(D)(2) of Ordinance 2020-16 shall be stricken in its entirety.

E.) That the restrictions on MB Thatcher with regard to the commencement of construction or operation of a drive-through facility in Section 4(A) of Ordinance 2020-16 are stricken.

F.) That Section 4(D)(2) of Ordinance 2020-16 shall be stricken in its entirety.

**Section 3.** That this Ordinance is enacted solely for the purpose of addressing the best interests of the Village with regard to this property, namely 2801 N. Thatcher Avenue, and it may not be relied upon or used in the interpretation of any provision of the Zoning Ordinance of the Village of River Grove, or any amendments thereto; or as precedence in the Village's consideration of any future applications for special use under the Zoning Ordinance.

**Section 4.** That this Ordinance shall supersede the portions of Ordinance 2020-16 related to the drive-through facility and proposed commercial building to be located at the northeast corner of Thatcher Avenue and Center Avenue, commonly known as a portion of 2801 N. Thatcher Avenue, with Property Index Number 12-26-402-002-0000. Nothing in this Ordinance shall modify or supersede the remaining portions of Ordinance 2020-16 that are directed to the other portions of the Redevelopment Area considered in that Ordinance, including the special use permit for a Planned Unit Development and variations/exceptions that are not addressed in this Ordinance.

**Section 5.** That Village staff is directed to record this Ordinance on title to the Property.

**Section 6.** If any portion of this Ordinance is invalid, that portion shall be stricken from this Ordinance and the remaining portions of this Ordinance shall continue in full force and effect to the extent possible.

**Section 7.** This Ordinance shall be in full force and effect from and after the date of its passage, approval and publication as provided by law.

Passed and approved this 18th day of November, 2021.

\_\_\_\_\_  
Hon. David B. Guerin, President

ATTEST:

\_\_\_\_\_  
Hon. Marjorie A. Manchen, Clerk

(S E A L)

<b>ORDINANCE NUMBER 2021-36</b>	<b>TRUSTEE</b>	<b>PRESENT</b>	<b>ABSENT</b>	<b>AYE</b>	<b>NAY</b>
Presented: _____	Bjorvik	_____	_____	_____	_____
Passed: _____	Thomas	_____	_____	_____	_____
Approved: _____	Obaya	_____	_____	_____	_____
	Muellner	_____	_____	_____	_____
	Lilly	_____	_____	_____	_____
	Lantgen	_____	_____	_____	_____

VILLAGE OF RIVER GROVE )  
COUNTY OF COOK ) SS  
STATE OF ILLINOIS )

**CERTIFICATION**

I, THE UNDERSIGNED, MARJORIE A. MANCHEN, do hereby certify that I am the duly elected and qualified Village Clerk of the Village of River Grove, Illinois, and that as such I am the keeper to the records, ordinances, files and seal of the said Village of River Grove; and

I, HEREBY FURTHER CERTIFY that the attached constitutes a full true and correct copy of Ordinance 2021-36, entitled:

**AN ORDINANCE AMENDING THE SPECIAL USE PERMIT  
AND VARIATIONS/EXCEPTIONS FOR PROPERTY LOCATED AT  
2801 N. THATCHER AVENUE**

**(PIN 12-26-402-002-0000)**

passed by the President and Board of Trustees at their Regular Village Board meeting of November 18th, 2021.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official Corporate Seal of the said Village of River Grove this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Hon. Marjorie A. Manchen  
Village Clerk

(S E A L)

**EXHIBIT A**

**REPORT AND RECOMMENDATION OF THE ZONING BOARD OF APPEALS  
IN CASE NO. 2021-ZBA-002**

(attached)

VILLAGE OF RIVER GROVE  
COOK COUNTY, ILLINOIS

ZONING BOARD OF APPEALS

<i>In the matter of:</i>	)	
	)	
MB THATCHER LLC, an Illinois limited liability company,	)	Case No. 2021-ZBA-02
	)	
Applicant.	)	

**REPORT & RECOMMENDATION**

To the President and Board of Trustees of the Village of River Grove, Cook County, Illinois:

The Zoning Board of Appeals of the Village of River Grove, Cook County, Illinois (“ZBA”), convened on the 12<sup>th</sup> day of October, 2021, at 7:04 p.m. pursuant to notice published in the *Chicago Tribune Media Group Elm Leaves*, in accordance with local ordinance and the Illinois Statutes, there being no newspaper published within the municipality, to consider an application filed by MB THATCHER LLC, an Illinois limited liability company (“Applicant”). Pursuant to a Redevelopment Agreement between the Applicant, approved by the Village of River Grove pursuant to Ordinance No. 2020-12, on May 7, 2020, the Applicant’s Planned Unit Development included, among other items, a commercial restaurant site. The commercial site proposed a restaurant building footprint of approximately 2,900 square feet with a drive-through facility.

Since that time, the Applicant has secured the right to purchase the property commonly known as Triton Towers located at 2725 Thatcher Avenue, and has submitted a proposed Phase 2 of the Applicant’s redevelopment of properties between Center Avenue and the railroad tracks, along Thatcher Avenue. The Phase 2 project proposes to repurpose two commercial pieces of property into mixed used buildings. More specifically, the Phase 2 Planned Unit Development (“Phase 2 PUD”) includes: (i) one 18-unit apartment building, with 4,453 square feet of commercial space on the ground floor, on the northeast corner of Thatcher Avenue and Center Avenue ("2801 Thatcher Avenue"); (ii) one 40-unit apartment building with 4,483 square



feet of office space on the ground floor, converted from the current office building on the southeast corner of Thatcher Avenue and Center Avenue ("2725 Thatcher Avenue"); and (iii) two pre-existing parking lots (one adjacent to 2725 Thatcher Avenue, and one located at 2722 Marwood Street) (collectively, the "Subject Property"). The applicant seeks approval of both the preliminary and final approval of the Phase 2 PUD, which would remove from the previously approved Planned Unit Development the drive-through restaurant on the northeast corner of Thatcher Avenue and Center Avenue. To proceed with the Phase 2 PUD, the Applicant seeks a special use permit for the planned unit development and necessary exceptions/variations to applicable bulk standards within the C-2 Zoning District.

More specifically, under Section 6-4-4(C) of the Village of River Grove Zoning Ordinance, the Phase 2 PUD requires the following exceptions/variations to the applicable standards:

1. Section 6-6-3 requires a 3' variance to the maximum 45' building height for 2801 Thatcher, resulting in a building height of 48' or, if the roof stairwell is included, the variance is 13' (58' height at top of stairs buildout);
2. Section 6-6-3 requires an 11' variance to the maximum 45' building height for 2725 Thatcher, resulting in a building height of 56', or if the roof stairs are included, a variance of 20' is needed (65' height at top of stairs buildout);
3. Section 6-12-13(A) requires a variance of 79 parking spaces to the required 154 off-street parking spaces for the proposed multi-unit dwellings, offices, and restaurant;
4. Section 6-12-6(A) requires relief from the requirement that all required parking spaces for the residential uses be located on the same lot as the buildings served, but the proposal includes on-street/on-right-of-way parking spaces allowances;
5. Section 6-12-13(C) requires permission for 8 on-street/on-right-of-way parking spaces which are not located along the front or side property lines;
6. Section 3-1-1(A) requires a 4" variance to the required 5'4" width of a sidewalk;
7. Section 6-12-8(A) requires a 3'8" variance to the required 18' length of parking spaces;
8. Section 6-12-8(B)(2) requires a 4' variance to the required 16' one-way traffic aisles in the currently non-conforming 2725 Thatcher parking lot;
9. Section 6-14-5(B)(1) requires a 31-tree variance from the minimum 51 shade trees required for the proposed Phase 2 Planned Unit Development;
10. Section 6-14-6 requires relief from the required parkway trees along Thatcher Avenue;

11. Section 6-14-7 requires a variance as there is no landscaping for the pre-existing parking lot adjacent to 2725 Thatcher included in the proposed Phase 2 Planned Unit Development;
12. Section 6-14-8 requires a variance for the pre-existing 2725 Thatcher parking lot as it does not have a perimeter landscape yard;
13. Section 6-14-9 requires a variance from the requirement that every row of parking in the 2725 Thatcher lot contain a parking lot island;
14. Section 6-14-10(C) requires a variance that the 2725 Thatcher parking lot abutting the building immediately south of it provides no space for a buffer yard;
15. Section 6-14-11(B)/Section 6-12-15(F) requires relief to permit that the loading berth be visible from the street and adjacent properties, and that it not be screened;
16. Section 6-12-15(A)(1) requires relief to permit off-street loading space located within the right-of-way;
17. Section 6-12-15(A)(3) requires relief to permit off-street loading space located within the right-of-way adjacent to the corner side yard;
18. Section 6-12-15(A)(4) requires relief to permit off-street loading space located within 50' from the lot line of 2801 Thatcher, although such lot is part of the proposed Planned Unit Development;
19. Section 6-11-4 requires relief to permit the Center Avenue balconies encroach over the property line.

Upon Chair Linda Snyder calling the hearing to order, Secretary Joseph Kosik called the roll. All seven zoning board members, namely Linda Snyder, Joseph Kosik, Craig Matz, Donald L. McElhattan, Mario Novelli, George Obrzut and Mabel Dieterle, were in attendance in-person. Additionally, Bart Smith was present as attorney for the ZBA. The Chair declared that a quorum was present.

The Chair then summarized the application, the properties owned by the Applicant and Triton Towers LLC; the Applicant's proposed Phase 2 PUD; and the necessary variations and exceptions to the zoning code. Before proceeding with the presentation of witnesses, the Chair directed that the attorneys place of record the following exhibits, the originals of which were admitted without objection and by stipulation:

- |            |   |
|------------|---|
| Joint Ex 1 | Affidavit of Compliance of Publication of Notice of Hearing and Certificate of Publication of the <i>Chicago Tribune Media Group</i> , Certification of Posted Notice on the Subject Properties; and the Certificate of Addresses |
|------------|---|

and Certified Mailing to all property owners with 250' of the Subject Properties.

Exhibit A	Legal Description of Property and PINs;
Exhibit B	Proposed PUD and Associated Variations/Exceptions;
Exhibit C	Proof of Ownership;
Exhibit D	Letter of Authorization of Triton Towers LLC
Exhibit E	Names and Addresses for Surrounding Property Owner Notice;
Exhibit F	Draft Notice of Public Hearing;
Exhibit G-1	2801 Thatcher Boundary Line Survey;
Exhibit G-2	2725 Thatcher Boundary Line Survey;
Exhibit H	Site Plan;
Exhibit I-1	2801 Thatcher Architectural Plans
Exhibit I-2	2725 Thatcher Architectural Plans
Exhibit J	PUD Analysis;
Exhibit K-1	2801 Thatcher Utility Plan
Exhibit K-2	2725 Thatcher Utility Plan;
Exhibit L-1	2801 Thatcher Engineering Drawings;
Exhibit L-2	2725 Thatcher Engineering Drawings;
Exhibit M-1	2801 Thatcher Landscaping Plan;
Exhibit M-2	2725 Thatcher Landscaping Plan;
Exhibit N	Circulation Plan
Exhibit O	Phasing Plan
Exhibit P	Construction Schedule
Exhibit Q	Environmental Issues
Exhibit R	Traffic Analysis

Upon the admission of the exhibits, Ryan Morton, counsel for the Applicant, summarized the Applicant's Planned Unit Development Phase 1 previously approved by the Village. Phase 1 included a drive-through commercial facility, and under the proposed Phase 2 PUD, this portion of the property would change to a mixed-use residential and commercial building. In addition to this change to Phase 1, the Phase 2 PUD adds the property at 2725

Thatcher Avenue. Counsel then identified a number of witnesses to present testimony in support of the Application at which time counsel for the ZBA swore-in collectively all individuals who were to present testimony on behalf of the Applicant.

Initially, Architect Jonathan D. Splitt explained the proposed change to the 2801 Thatcher Avenue property from a drive-through commercial building to a four-story residential commercial mixed-use building; and the redevelopment of the existing building at 2725 Thatcher Avenue and its adjacent parking lot and remote parking lot at 2722 Marwood Street. He explained that most of the variances relate to the existing building at 2725 Thatcher. He also reviewed the ground floor office space and commercial space offered by the two buildings, along with the residential units above the ground floors. He confirmed that the 2725 Thatcher building would offer balcony open space for residents, while the 2801 Thatcher building would offer roof-top open space. His presentation included a review of the architectural renderings for the proposed Phase 2 PUD.

Upon completion of Architect Splitt's presentation, Attorney Morton stated that the required variances could be divided into five categories, and summarized the requested variances as follows:

1. Roof Heights. The requested roof height variances are less if you do not include the stairways that consist of a small portion of the roof area of each proposed building. Additionally, the proposal does not change the 2725 Thatcher roof, but there will not be any rooftop amenity. A new stairwell is being constructed for fire safety reasons and to allow the owner to service the building's mechanicals. Counsel lastly confirmed that there is no cellular or other third party equipment planned for the 2725 Thatcher roof.
2. Parking. Counsel explained that 154 spaces are required by code, but only 58 residential and 17 commercial parking spaces are included in the plan. Therefore, a variance of 79 parking spaces is necessary. Counsel explained that this transit-oriented development provides sufficient parking in that the residential units are provided parking on a 1:1 ratio, and 17 commercial spaces are set forth in the plan. He further explained that not all parking is located on the same lot but adjacent to the buildings; that 8 residential parking spaces are located in the right of way; certain sidewalk is 5' in width, and not 5'4" but this allows for added parking while allowing for a 3' pedestrian passageway. Additionally, certain planned parking spaces comply with the required width but overhang into street. This parking exists already. Lastly, relief is needed from the required width of 16' for one-way aisles in a parking lot by 4", but this allows the development to maintain and preserve existing parking spaces.

3. Landscaping. The Code requires 51 shade trees but with the existing 2725 Thatcher building and parking lots, only 20 shade trees are possible. The plan adds trees and islands wherever possible without reducing available parking or impairing safety sight lines for traffic. Lastly, there is no room for parkway trees on Thatcher Avenue.
4. Loading in Right of Way. The architects explained the need variances for the loading area for both residential and commercial uses, and noted this concept was previously approved in the Phase 1 PUD. The architects opined that keeping the loading area off the streets and in a location that does not impair residential parking areas is most beneficial.
5. Balcony. The planned balconies at 2725 Thatcher provide open space for these residential units, and the extent of the encroachment on Center Avenue and the adjacent 2725 Thatcher parking area is *de minimis*. There are no planned balconies encroaching upon Thatcher Avenue or east Thatcher Avenue alley, and counsel stated that the planned balconies blend in well with the Phase 1 PUD buildings.

At that point, Chair Snyder questioned the Applicant as to whether a commercial tenant was secured for the 2801 Thatcher location, and what marketing efforts had been made to lease the planned commercial space. The Applicant called real estate broker Renato Casali who was sworn, to respond.

Realtor Casali explained that the current tenants at 2725 Thatcher have indicated a desire to stay in the building and move to the first floor, and that the building is only 15% occupied at this time. As for 2801 Thatcher, he stated that different restaurant concepts have been discussed but that it was difficult to market an empty lot. He claimed that he needs the building to “spark interest” in the location. He also stated that a drive-through at this location was a “tough pitch” due to the location of the train tracks and the traffic congestion caused by the train. He concluded by stating that the new plan was to market a “destination location” as opposed to a “drive-through,” which is a much “easier pitch” due to the train tracks.

The Applicant next called Michael Werthmann, its professional traffic consultant, who explained that the Phase 2 PUD proposes 58 residential units, approximately 4,400 square feet of restaurant space, and 4,500 square feet of office space. He stated that these proposed uses are less intensive than the currently allowed drive-through restaurant and office building, and should generate less traffic for the area. He also noted that the access points to the properties will remain the same.

Following Mr. Werthmann's testimony, Counsel Morton then summarized how the proposed Phase 2 PUD meets the standards for a PUD, and how the requested variances meet the standards set forth in the Code. The summary is also set forth in Exhibit J of the Applicant's application which is attached hereto and incorporated by reference as Exhibit A. The members of the Zoning Board of Appeals accepted the presentation and conclusions without questions for the Applicant.

At that point, the Chair asked for any presentation by the Village of River Grove. Village Engineer Mark D. Lucas advised the ZBA that the Site Plan Review Committee and staff of the Village reviewed and supported the application. Engineer Lucas noted that: (a) existing conditions at 2725 Thatcher necessitate the requested variations and the plan adds plantings where possible; (b) the requested variances were logical based upon the existing conditions; (c) the requested height variances are compatible with existing variances and in conformance with past variances granted by the Village; and (d) the residential balconies are not a concern due to the height of balconies and the fact the building will be fully sprinklered. He further stated that adhering to the Zone C-2 requirement of having commercial use on the first floor for both structures was important and the proposal includes these uses. Finally, Engineer Lucas confirmed that the existing infrastructure is sufficient to serve the proposed development of the Phase 2 PUD. No further comment or presentation was received from the Village.

The Chair then opened the hearing for public comment which included the following:

William Johns of Marwood was advised that the proposed residential units were rental units. Mr. Johns later commented that he moved to River Grove after retiring as a Chicago police officer because River Grove was a safe community where he could leave his doors open without concern.

Sean Allen of Palatine, stated he was a bricklayer union representative and that 16 bricklayers resided in River Grove. He then read from the Redevelopment Agreement (RDA) and claimed the Applicant was in breach of the RDA and questioned why the Village has not enforced the RDA and why the ZBA would grant additional zoning relief to this Applicant.

James Stebbins of Marwood, commented that public safety issues will be created by transient tenants in the neighborhood, and that owners of the single-family homes are being invaded by transient tenants. He asked about public safety measures being taken, and upon a second appearance, he restated his safety concerns with the development, and asked that cameras and better lighting be required to address public safety issues.

Lorita Hare of Marwood disapproves of the zoning and proposed development. She states that renters are transient and the Village should mandate condominiums. She then reviewed three other developments by the Applicant, and opined that River Grove residents do not want more apartments. During a second appearance, she reviewed the property at 2640 Marwood Street and criticized the planned public parking for Grand Avenue businesses, and claimed these businesses do not need additional parking.

Rocco Carrozza of Thatcher Avenue stated he owns the building south of 2725 Thatcher Avenue, where he operated a plumbing business before his son opened a law office. He has concerns that the current infrastructure is not sufficient for the proposed development, and further commented that parking is a concern as is relocating snow from the properties.

Phil Harris of Budd Street appeared twice. Initially he stated that the parking analysis is overly optimistic because “these people still have cars” even if they take train. He also stated that this is overdevelopment and right next to the current redevelopment. He indicated that the first redevelopment project was 18 months of hell for him. He complained that the “construction army” does whatever its wants, and that resident complaints were ignored, such as concerns about dust, parking, and hours of construction. He suggested that the Village mandate staged construction of the Phase 2 PUD, and address parking, staged worked, weekend hours, dry cutting bricks all day long, etc. as these residents are now being asked to go through it all again. He claimed this is not fair. He later concluded that the Village should address the available vacant commercial space in the area because you can only shoehorn some much into an area.

Ryan Pietrzak of Elm Street reviewed various OSHA violations cited during the Phase 1 redevelopment, and then reviewed the violations light of the RDA.

Counsel for the ZBA then confirmed that there were no email or call-in comments on this matter.

At that point, the Chair declared the public portion of the hearing closed, and members of the board openly discussed various issues. Member Kosik expressed concern about the parking variance now that commuting is down. Chair Snyder stated that the Applicant failed to adequately explain why a commercial tenant has not been located for the 2801 Thatcher property or alternatively, its marketing of the property. Member Obrzut commented that the proposed change at 2801 Thatcher will generate less traffic and that it is tough to market the commercial space until it is built. Member Dieterle emphasized that her concerns were the concerns expressed by the neighbors relating to the construction site, compliance with code and proper consideration for the residents and their homes. Lastly, Member McElhattan expressed concern over the history of this developer, its non-compliance with OSHA related matters, and parking being insufficient for the proposed development.

Following these comments, Matt Welch, counsel for the Applicant reviewed various issues and concluded that the neighbors' concerns are legitimate and the Applicant will work with Village on staging plan, as the Applicant wants to be a good neighbor.

At that point, Member Kosik stated the board did not have any issues with granting the variances, but that the neighbors' concerns need to be addressed. Member Kosik then made a motion that the board recommend that the President and Board of Trustees grant the special use permit for the MB Thatcher Phase 2 Planned Unit Development and necessary exceptions/variances, on the condition that the Applicant agree with the Village as part of the Redevelopment Agreement on a staging plan addressing the concerns of the residents as raised during the public comment portion of the hearing. Member Matz seconded the motion. On a roll call vote, the members voted as follows:

Yes - Craig Matz, Mario Novelli, Joseph Kosik, George Obrzut and Mabel Dieterle

No – Donald McElhattan and Linda Snyder

Therefore the motion to recommend that the Corporate Authorities approve the Applicant's requested special use permit for the planned unit development and the requested variances and exceptions passed.

#### **RECOMMENDATION**

With respect to the Application for Zoning Special Use seeking a special use permit for the MB Phase 2 Planned Unit Development ("MB Phase 2 PUD"), a majority of the board voted to recommend that the requested Special Use Permit for the MB Phase 2 PUD be approved by the President and Board of Trustees. In making this recommendation, a majority of the Board did not question the following presentation of the Applicant:

- a. The proposed special uses within the MB Phase 2 PUD are, in fact, authorized uses in the C-2 zoning district.
- b. The proposed special uses of the MB Phase 2 PUD are necessary for the public convenience at the Subject Properties.
- c. The MB Phase 2 PUD does not create any excessive additional impacts at public expense for public facilities and services, and will be beneficial to the economic welfare of the community.



- d. The proposed MB Phase 2 PUD is in conformance with the goals and policies of the comprehensive plans of the Village.
- e. The proposed MB Phase 2 PUD is designed and located so as to be harmonious and compatible in use and appearance with the existing and intended character of the general vicinity.
- f. The proposed MB Phase 2 PUD will not diminish the safety, use, enjoyment, and value of other property in the neighborhood, but should increase the safety, use, enjoyment, and value of the other properties.
- g. The proposed MB Phase 2 PUD is compatible with the development and use of adjacent properties.
- h. The proposed MB Phase 2 PUD minimizes potentially dangerous traffic movements, and provides adequate and safe access to the Subject Property.
- i. The proposed MB Phase 2 PUD provides a sufficient number of parking spaces.
- j. The proposed MB Phase 2 PUD is served by adequate utilities, drainage, road access, public safety, and other necessary facilities.
- k. The proposed MB Phase 2 PUD otherwise conforms with the requirements of the Village Code and other applicable regulations.

With respect to the requested variations or exceptions, in making this recommendation, a majority of the ZBA further agreed without question on the following presentation of the Applicant:

- a. The Applicant established that carrying out the strict letter of the provisions of the Zoning Code would create a practical difficulty or particular hardship and preclude the Applicant from proceeding with the MB Phase 2 PUD.
- b. The properties hosting the proposed MB Phase 2 PUD are exceptional due to their proximity to the railroad right-of-way and the fact that 2725 Thatcher is pre-existing.
- c. The aforesaid unique physical conditions of the properties hosting the MB Phase 2 PUD are not the result of any action or inaction of the Applicant, but rather these conditions have existed since the enactment of the current Zoning Code from which the variations and exceptions are sought, or from the requirements imposed upon the Applicant by the Village.
- d. The carrying out of the strict letter of the provisions from which the variations are sought would deprive the Applicant of substantial rights commonly enjoyed by owners of other properties subject to the same provisions, as the properties are

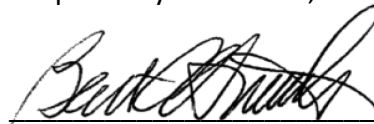
fixed, have remained vacant or under-utilized for many years, and the MB Phase 2 PUD cannot proceed without the granting of the requested variances and exceptions.

- e. The hardship or difficulty in developing the properties is neither merely the inability of the Applicant to enjoy some special privilege or additional right not available to owners or occupants of other lots or properties subject to the same provisions, nor merely the inability of the Applicant to gain a greater financial return from the use of the Subject Properties.
- f. The requested variations and exceptions do not result in a use that is not in harmony with the general and specific purposes of the Zoning Code or the general purposes and intent of the Village's comprehensive and transit-oriented plans.
- g. There are no means, other than granting the requested variations and exceptions, by which the alleged hardships or difficulties may be avoided or remedied to a degree sufficient to permit the proposed MB Phase 2 PUD.
- h. The requested variations are the minimum measures of relief necessary to alleviate the hardship or difficulty presented by the strict application of the Zoning Code, and are necessary for the completion of the proposed MB Phase 2 PUD and its collateral public and quasi-public benefits.

**ACCORDINGLY, IT IS THE RECOMMENDATION OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF RIVER GROVE, COOK COUNTY, ILLINOIS, THAT THE PRESIDENT AND BOARD OF TRUSTEES APPROVE AND GRANT THE SPECIAL USE PERMIT FOR THE MB THATCHER PHASE 2 PLANNED UNIT DEVELOPMENT, AND THE VARIANCES AND EXCEPTIONS REQUESTED BY MB THATCHER LLC, ALL STANDARDS FOR SUCH RELIEF HAVING BEEN MET; PROVIDED HOWEVER, THE ZONING BOARD OF APPEALS MAKES SUCH RECOMMENDATION ON THE CONDITION THAT THE VILLAGE OF RIVER GROVE AND MB THATCHER LLC SET FORTH CERTAIN CONDITIONS IN ANY REDEVELOPMENT AGREEMENT ADDRESSING AND MINIMIZING THE ADVERSE IMPACTS THE CONSTRUCTION HAS UPON NEIGHBORING RESIDENTS, INCLUDING WITHOUT LIMITATION DUST CONTROL, DESIGNATED PARKING FOR CONSTRUCTION WORKERS, AND PERMITTED HOURS OF CONSTRUCTION.**

Dated: November 1, 2021.

Respectfully submitted,



\_\_\_\_\_  
Bart A. Smith, Attorney for the Zoning Board  
of Appeals, Village of River Grove

**EXHIBIT J**

**Planned Unit Development Analysis**

**A. Introduction.**

In 2020, MB Thatcher LLC (“*MB Thatcher*”) came before the Village’s Plan Commission/Zoning Board of Appeals with an application for a planned unit development and associated zoning changes/variances (“*Thatcher Phase #1*”) on property located east of Thatcher Avenue and north of Center Avenue. Thatcher Phase #1 was intended to consist of five luxury high-end transit oriented rental multi-unit dwellings (“*Phase #1 - Lot 1*”), and a commercial/retail building with a drive-through facility on a vacant lot, which was formerly Quasthoff’s Flower (“*Phase #1 - Lot 2*” or “*2801 Thatcher*”). The Plan Commission/Zoning Board of Appeals recommended approval of Thatcher Phase #1 on June 9, 2020 and the Village Board of Trustees approved the applicable ordinances on June 18, 2020.

MB Thatcher has constructed residential buildings in completion of Phase #1. However, upon further review of market conditions, which have changed significantly since last year, MB Thatcher has determined that another residential building on Phase #1 – Lot 2, with solely commercial/retail space on the ground floor, would better meet the needs of the community. Thus, this second application for a planned unit development and associated variances (“*Thatcher Phase #2*”) is being submitted by MB Thatcher for consideration by the Plan Commission/Zoning Board of Appeals. In addition to an 18-unit residential building with commercial space on the first floor of 2801 Thatcher, Thatcher Phase #2 also includes the renovation of Triton Towers into a 40-unit apartment building with office space on the first floor (“*2725 Thatcher*”), along with two pre-existing parking lots. The only overlap between Thatcher Phase #1 and Thatcher Phase #2 is the vacant property at 2801 Thatcher.

The Village has studied the public health, safety, and general welfare needs and opportunities for the community. In particular, the general area east of Thatcher Avenue, north and south of Center Avenue, was studied and considered well-qualified for planning objectives and redevelopment tools. This study and planning effort culminated in the approval of several important Village-approved incentive and economic development tools and objectives, including:

- The River Grove Comprehensive Plan
- The River Grove March 2005 Grand Avenue Village Center Plan;
- The River Grove March 2014 Thatcher Avenue Transit Oriented Development Plan;
- The River Grove 2016 Grand Thatcher Tax Increment Financing Ordinance; and
- The River Grove August 12, 2019 Request for Qualifications for the Thatcher Avenue Development Property.
- Ordinance No. 2020-12 Authorizing a Redevelopment Agreement by and between River Grove and MB Thatcher LLC

Approval of Thatcher Phase #2, along with the prior approval of Thatcher Phase #1, will help to redevelop the area in question by bringing it back to its highest and best use.

The Village has recognized that the Property currently lacks community planning, the current buildings on the Property are obsolete and deteriorating, and that the public utilities in and around the Property area are inadequate for modern demands. Although significant development challenges exist, the redevelopment of the Property presents an opportunity to the Village and its residents to foster a major project in a responsible manner. Accordingly, the Village has proactively sought adaptive reuse of the Property in a coordinated and planned basis.

After months of extensive discussions with the Village Economic Development Committee, MB Thatcher is pleased to submit the enclosed development proposal for consideration in furtherance of the redevelopment goals for the Property identified by the Village.

The Property is currently zoned “C2 Office and Commercial District.” Per the Village’s request, MB Thatcher is not applying for a map amendment, instead seeking a special use as part of the planned unit development process, to allow residential in the C2 District above first-floor commercial.

### **B. Planned Unit Development Analysis.**

The purpose of the planned unit development is to allow a creative approach in the use of land and related physical facilities that results in better design that would not be possible under the strict application of the River Grove Zoning Ordinance.

Through an extended process of consultation and negotiation with the Village Economic Development Committee, MB Thatcher proposes to develop a luxury residential development which necessitates a planned unit development (“PUD”). The PUD includes a special use for residential apartments on the upper floors of both 2801 Thatcher and 2725 Thatcher. The PUD also includes necessary requests for variation which have been planned and designed to be the minimum amount of variations to permit the negotiated development, and to create a suitable environment to attract a community of residents to support the redevelopment objectives of the Village.

In furtherance of the PUD, MB Thatcher states as follows:

- 1. *PUDs must be a minimum of twenty thousand (20,000) square feet in area.***

The Property is 38,422 square feet (0.88 acres).

- 2. *PUDs shall be compatible with the purpose and intent of [the Zoning Ordinance] and the Village’s comprehensive plan. A PUD shall exercise no detrimental influence upon the market value of surrounding properties and it shall cause no substantial impairment of the use of those properties by present owners.***

The long-term development plan of the Village is that the Property be utilized for residential and commercial purposes similar to the surrounding properties to maximize and ensure its highest and best use. The Village has determined that the Property is currently blighted and is having a negative effect on the surrounding environs. The proposed PUD will likely increase the

market valuation of surrounding properties and eliminate the blighting factors. Further, as part of the proposed PUD, MB Thatcher will commit itself to constructing sufficient public facilities, as set forth in the enclosed plans, to ensure surrounding properties are not impaired by the new use of the Property.

**3. *Petitioner shall make a showing of favorable economic impact on the Village.***

Upon substantial completion of the Project, MB Thatcher projects the EAV of the residential/commercial development to be approximately \$2,823,319, which results in annual property taxes in the amount of \$253,939. Further, the residents occupying the upscale development will undoubtedly have a positive effect on the commercial businesses in and around the Village.

**4. *Petitioner must show that the proposed PUD will be in no way detrimental to, or adversely affect, the environment.***

MB Thatcher, as evidenced by the attached plans, is committed to developing a unique and first-class residential development at the Property. Accordingly, MB Thatcher is committed to utilizing first rate materials. Finally, as part of the renovation of the current structure and land preparation, MB Thatcher shall ensure all activities are completed in compliance with the highest industry standards.

**5. *Harmonious design, including a variety of building types, shall be encouraged.***

MB Thatcher has ensured that both buildings look similar without being identical, while also being consistent with buildings constructed as part of Thatcher Phase #1. The exterior of 2725 Thatcher will be designed to match or complement the design of 2801 Thatcher, in colors, railings, windows, and more. The landscaping will also be similar to reflect a cohesive development. (see attached plans).

**6. *Developer shall provide for and establish an organization for the ownership and maintenance of any common open space designated within a PUD.***

The only common area inside either building is on the ground floor around the entrance, including fitness amenities in each building. The only common areas outside the buildings are the parking lots and landscaping. MB Thatcher will maintain ownership of these areas and will provide maintenance for them.

**7. *Development shall not impose an undue burden on public services and facilities.***

As part of its negotiations with the Economic Development Committee, MB Thatcher has committed to constructing and installing all public facilities necessitated by the proposed development. (see attached plans).

**8. *The site shall be accessible from dedicated public roads to carry traffic generated by the PUD.***

As evidenced by the site plans, dedicated public roads currently exist around the Property.

### **C. Variation Analysis**

Finally, in relation to requested exceptions/variances to bulk standards, MB Thatcher states as follows:

**1. *Section 6-6-3 – 3’ variance to the maximum 45’ building height for 2801 Thatcher, resulting in a building height of 48’. If the stairs are included, the variance would be 13’ (58’ building height at top of stairs build-out).***

The additional 3 feet of building height is necessary to maintain uniform ceiling heights across four floors, which is the number of floors the buildings in Thatcher Phase #1 have. The plans include a stairs enclosure to allow mechanical access to the roof, which adds 10 feet of height, but only in that small portion of the roof.

**2. *Section 6-6-3 – 11’ variance to the maximum 45’ building height for 2725 Thatcher, resulting in a building height of 56’. If the roof stairs are included, the variance would be 20’ (65’ height at top of stairs buildout).***

This building’s height is a pre-existing non-conformity, which would require demolishing an entire floor during the renovation to meet the Code. Additionally, the plans include adding a stairs enclosure to allow mechanical access to the roof, as with 2801 Thatcher. This adds 9 feet of height, but only in that small portion of the roof.

**3. *Section 6-12-13(A) – 79-space variance to the required 154 off-street parking spaces for multi-unit dwellings, offices, and restaurants.***

The Zoning Ordinance requires (i) 1.5 parking spaces per one- or two-bedroom dwelling unit in a multi-unit building; (ii) 2 parking spaces per three-bedroom dwelling unit in a multi-unit building; (iii) 4 parking spaces per 1,000 square feet of gross floor area in office space; and (iv) 1 parking space per 60 square feet of public seating area in restaurant space (including outdoor dining).

As shown in the chart below, the proposed planned unit development has (i) 55 one- or two-bedroom dwelling units between both buildings; (ii) 3 three-bedroom dwelling units in 2801 Thatcher; (iii) 4,483 square feet of office space in 2725 Thatcher; and (iv) 4,453 square feet of commercial space in 2801 Thatcher. In consultation with the Village’s Economic Development Committee, MB Thatcher plans to find a restaurant tenant to occupy the commercial space, which means only 1,984 square feet will be used for the dining area. Additionally, only a portion of that

space would be used for actual seating rather than service aisles. MB Thatcher estimates 70% of the dining space will be used for seating, which is 1,389 square feet. However, the Property would also include 2,079 square feet of outdoor dining space on the patio and sidewalk. Seventy percent of that is 1,455 square feet.

Based on these numbers, the Zoning Ordinance requires that the proposed planned unit development contain 89 residential parking spaces, 18 office parking spaces, and 47 restaurant parking spaces. That is a total of 154 parking spaces for this development.

	<u>Units</u>	<u>Square Footage</u>	<u>70% Square Footage*</u>	<u>Spaces Required by Code</u>	<u>Total Spaces Required</u>
<b>2801 Thatcher</b>					
One-bedroom	1			1.5 per unit	2
Two-bedroom	14			1.5 per unit	21
Three-bedroom	3			2 per unit	6
<i>Indoor dining</i>		1,984	1,389	1 per 60 sq. ft.	23
<i>Outdoor dining**</i>		2,079	1,455	1 per 60 sq. ft.	24
<b>2725 Thatcher</b>					
One-bedroom	40			1.5 per unit	60
<i>Office</i>		4,483		4 per 1,000 sq. ft.	18
<b>TOTAL</b>					<b><u>154</u></b>

\* Presumes 30% of dining space consists of service aisles

\*\* Includes patio and sidewalk dining

The plans for this development contain only 75 parking spaces. Of those, 61 spaces are designed for residential parking, mostly in the existing parking lots. The 9 spaces adjacent to the north side of 2725 Thatcher are designed for commercial parking, along with the 5 parking spaces in the rear of 2801 Thatcher. That results in a requested variance of 79 parking spaces.

The reason for this variance is simply that there is no additional room to fit additional parking spaces. For the existing building, there is no way to make the building smaller to fit more parking. For the newly-constructed building, it is not feasible to add more parking spaces to the site. However, the Village is planning to construct a public parking lot on Marwood, adjacent to the existing lot that is part of this development. The new lot would add 18 available public spaces, which could be utilized for the office building, the restaurant, or even residents (with permits).

This variance request would be lessened if a 1:1 ratio is used for residential parking. That is the ratio that was approved for Thatcher Phase #1, based on this being a transit-oriented development with fewer car owners. Excluding the three-bedroom apartments, a 1:1 ratio would reduce the number of required residential parking spaces from 89 to 61, which is what the plans provide. A 51-spot variance would still be needed for the commercial spaces (65 required, 14 provided), but that is significantly less than the 79-space variance without the 1:1 ratio. Of course,



most of the commercial spaces are required for due to the planned restaurant. The required number of parking spaces would be much less for other types of commercial uses.

**4. Section 6-12-6(A) – *Not all required parking spaces for the residential uses are located on the same lot as the buildings served.***

In addition to the requested variance for the number of parking spaces connected to the development, another variance is needed regarding the location of those spaces. None of the residential parking spaces are located on the 2801 Thatcher property. For 2725 Thatcher, 28 of the spaces are not located on the same lot as the residential building. The 20-space parking lot at 2722 Marwood Street is across from the parking lot connected to 2725 Thatcher. The other 8 residential spaces are along Center Avenue, a few yards away from both buildings. The available residential parking is still very close to both buildings, and there is ample parking in other parts of this area, including Thatcher Phase #1. Additionally, another 18 spots will become available when the Village builds the public lot on Marwood.

**5. Section 6-12-13(C) – *Eight (8) on-street/on-right-of-way parking spaces are not located along the front or side property lines.***

In order to locate enough parking spaces for the residents, 8 spaces needed to be placed along the north side of Center Avenue, which is not along the property line of either building. However, it was not feasible to include more spaces on-site given the landscaping and loading berth for 2801 Thatcher. Those 8 spaces were previously permitted and constructed for 2801 Thatcher under Thatcher Phase #1 as commercial spaces.

**6. Section 3-1-1(A) – *4” variance to the required 5’4” width of a sidewalk.***

Currently, drivers park on an expansive sidewalk on the north side of 2725 Thatcher. As part of this development and revitalization of the office building, MB Thatcher plans to add actual asphalt parking spaces to the property. The width of the sidewalk will consequently be reduced, to 5-feet, which is 4 inches shorter than the requirements of the Village Code. Five-feet is a fairly standard width for sidewalk in this type of district. Despite the loss of four inches, there will still be ample room to walk between parked cars and the building. Even with a 1-foot, 6-inch overhang from parked cars, the sidewalk would still have the minimum 3-foot, 6-inches of available sidewalk for accessible access.

**7. Section 6-12-8(A) – *3’8” variance to the required 18’ length of parking spaces.***

The effect of including a sidewalk on the north side of 2725 Thatcher is that there is not enough room for a standard-length parking space due to the pre-existing building. The 9 spaces designed for commercial parking on Center Avenue each measure 14-feet, 4-inches in length, which is 3-feet, 8-inches shorter than the 18-foot requirement in the Village Code. However, the curbs are designed to allow a 1-foot, 6-inch overhang onto the sidewalk without impairing pedestrian traffic, which creates an effective parking stall length of 15-feet, 10-inches. That length,



while still more than two feet shorter than the Code requires, is consistent with other parking space lengths in the Village, such as the public parking areas on side streets off Grand Avenue. The alternative would be reducing the size or eliminating the sidewalk.

**8. Section 6-12-8(B)(2) – 4’ variance to the required 16’ one-way traffic aisles in the parking lot.**

The proposed configuration for the parking lot at 2725 Thatcher is unchanged from its current, non-conforming existence. Although MB Thatcher will restripe the parking lot and increase the width of each parking stall, the aisle width will remain the same. As a result, the aisles will still be only 12’ wide, 4 feet short of the Code requirement. However, the design corrects the non-conforming nature of the spaces themselves. The restriped spaces will be the appropriate width and length.

**9. Section 6-14-5(B)(1) – 31-tree variance to the minimum 51 shade trees required.**

Due to the existing building and the existing parking, there is no way to include as many shade trees as this section of the Zoning Ordinance requires. The calculation of required trees excludes building square foot but not parking lot square footage. There is simply not enough green space to plant the number of shade trees required. However, there will be 20 trees (6 more than the site plan currently shows) and tasteful landscaping across the property wherever possible. Additionally, this project actually increased the tree count at 2801 Thatcher from what was proposed and accepted in Thatcher Phase #1.

**10. Section 6-14-6 – No parkway trees are proposed for Thatcher Avenue**

The lack of parkway trees is due to the existing limited width of sidewalk/parkway along Thatcher Avenue. MB Thatcher will provide on-lot trees in the setbacks along 2801 Thatcher to act as “parkway” trees, but there is no setback for 2725 Thatcher. Also, not that there are four parkway trees on Center Avenue.

**11. Section 6-14-7 – No landscaping for the pre-existing parking lot adjacent to 2725 Thatcher is included in the proposed Planned Unit Development.**

In the interest of maintaining as many parking spaces as possible, MB Thatcher is proposing re-use/reconstruction of the existing parking lots in the same layout as the existing parking lots, which do not have landscaping. However, since the plans were drafted, MB Thatcher’s architect decided to add four island trees to the 2725 Thatcher lot, which will add some landscaping. Although the 2722 Marwood lot was already previously approved by the Village as is, MB Thatcher proposes adding two trees to that lot as well.

**12. Section 6-14-8 – *The pre-existing 2725 Thatcher parking lot does not have a perimeter landscape yard.***

The current parking lot at 2725 Thatcher does not conform to the Zoning Ordinance, as it abuts the street but does not contain any perimeter landscape yard, let alone five feet of landscaping as required by the Code. The planned unit development will retain the current parking lot mostly as it is, though tree islands will be added as mentioned above, and a short wall will be removed between the lot and Thatcher Avenue. There simply is no room to add landscaping.

**13. Section 6-14-9 – *Not every row of parking spaces in the 2725 Thatcher lot will contain a parking lot island.***

The current plans do not include any parking lot islands. However, the architect has determined that he can fit four islands in the 2725 Thatcher parking lot and two islands in the 2722 Marwood Street parking lot. However, that leaves two rows in the building-adjacent parking lot without an island, due to accessible parking, a trash receptacle, and horizontal parking. There simply is not room for more islands without removing parking spaces.

**14. Section 6-14-10(C) – *The pre-existing 2725 Thatcher parking lot abuts the building immediately south of it, leaving no space for a buffer yard.***

Another way the existing parking lot at 2725 Thatcher does not conform to the Zoning Ordinance is that it abuts the building immediately south of it, with no buffer yard required by the Code. To maximize parking, the dimensions of the parking lot will not be reduced, which means the extra space cannot be added, nor can there be a fence or shade trees between the lot and that adjoining property.

**15. Section 6-14-11(B)/Section 6-12-15(F) – *Loading berth is visible from the street and adjacent properties, and it is not screened.***

This variance and the next three were already approved as part of Thatcher Phase #1. As the loading berth is proposed within the Center Avenue right-of-way, there is no way to avoid its visibility from the street and adjacent properties. Also, screening as described in this section of the Zoning Ordinance would likely create traffic sight-line issues. The loading site would only be occupied by a delivery truck for the desired restaurant.

**16. Section 6-12-15(A)(1) – *Off-street loading space is located within the right-of-way.***

The Site Plan shows the 12' x 30' loading berth entirely within the Center Avenue right-of-way. However, since the proposed 2801 Thatcher has less than a 6,500 square foot building footprint, its size falls below the minimum 10,000 square feet of gross floor area that requires one loading space. Nonetheless, MB Thatcher feels the restaurant would be most compatible with the PUD if a loading space were provided.

**17. Section 6-12-15(A)(3) – Off-street loading space is located within the right-of-way adjacent to the corner side yard.**

A loading berth for the restaurant is proposed adjacent to the restaurant in the Center Avenue right-of-way. The site planners have spent a great deal of time and attention to this recommendation. It was determined this is the optimal location for that use. The restaurant would not have continuous use of the loading berth, which is only expected to be used several times per week. This location has the least conflict with customer traffic and is the easiest space for a truck to maneuver to.

**18. Section 6-12-15(A)(4) – Off-street loading space is located within 50' from the lot line of 2801 Thatcher, although such lot is part of the proposed Planned Unit Development.**

See above analysis.

**19. Section 6-11-4 – Center Avenue balconies encroach over the property line.**

The Village Code allows balconies to project into a setback, but the Code does not contemplate that balconies will extend outside a property line. The balconies on the north side of 2725 Thatcher extend 4-feet, 6-inches from the building pillars. However, the building is set in from the property line, so the total public way encroachment is just a quarter-inch under 4-feet. Consequently, the balconies will extend over much of the sidewalk but not the parking spaces. The balconies are designed to be inobtrusive and blend in with the surroundings. The encroachment is only over the sidewalk between the building and Center Avenue, which will be used primarily by residents of the building and customers to the offices below. They match the balconies on the south side of the building overhanging the parking lot.