

122-O-01

AN ORDINANCE

**GRANTING A SPECIAL USE FOR A PLANNED
DEVELOPMENT IN THE D4 DOWNTOWN
TRANSITION ZONING DISTRICT
("800 ELGIN/1800 SHERMAN")**

WHEREAS, Prentiss Properties Acquisition Partners, L.P. ("Owner") submitted an application to the City of Evanston (the "City") seeking approval of (i) a special use for a planned development (the "Planned Development") including approval of development allowances related to building height, the ziggurat setback and the provision of ground level retail and service uses, as regulated in the Zoning Ordinance of the City of Evanston (the "Zoning Ordinance"), and (ii) a plat of subdivision, all as affects certain property located within the D4 Downtown Transition zoning district and shown on the Development Plan (as hereinafter defined) and lying generally in the area bounded by Elgin Road, Sherman Avenue, Clark Street and Benson Avenue in the City (the "Property") in a D4 Downtown Zoning District; and

WHEREAS, the Property is currently improved with the building and other improvements commonly known as 1800 Sherman Avenue and an adjacent parking lot, and is intended to be further developed pursuant to that certain Ground Floor/Site Plan, Floor Plans and Elevations prepared by Wright Architects and dated December 3, 2001 (Document ZA1) and that certain Landscape Plan prepared by Douglas Hills Associates, Inc. and dated April 27, 2001, as amended (Document ZA2), which are

attached hereto and made a part of this Ordinance as Exhibit A (collectively, the "Development Plan"); and

WHEREAS, the Property is intended to be subdivided as depicted on that certain Plat of Subdivision prepared by SDI Consultants Ltd. and dated December 10, 2001 (Document ZA3), which is attached hereto and made a part of this Ordinance as Exhibit B (the "Plat of Subdivision") and will divide the Property into Lot 1 ("Lot 1") and Lot 2 ("Lot 2") upon recordation thereof; and

WHEREAS, the development of the Property pursuant to the Development Plan requires development allowances from the strict application of the D4 Downtown Transition District regulations of the Zoning Ordinance so as to permit construction of structures to defined building heights in excess of heights permitted by, with setbacks other than the ziggurat setback required by, and without certain ground floor retail and service uses required by, applicable zoning regulations of the Zoning Ordinance; and

WHEREAS, pursuant to Sections 6-3-6-4 and 6-3-6-5 of the Zoning Ordinance, a planned development may provide for development allowances which depart from height, setback, use and other regulations established in the Zoning Ordinance, subject to approval of the City Council; and

WHEREAS, pursuant to §6-11-1-5 of the Zoning Ordinance, the City has undertaken a site plan review of the proposed Planned Development and determined that the Planned Development is an appropriate development for the Property; and

WHEREAS, the City's Plan Commission conducted a public hearing on October 10, 2001 upon application of Owner for approval of a special use to establish the Planned Development and the Plan Commission made certain findings of fact and

recommended that the Planned Development not be approved, including the requested relief related to defined building height, the ziggurat setback and the absence of certain ground floor retail and service uses, which findings and recommendation are incorporated herein by reference; and

WHEREAS, at its November 14, 2001 meeting, the Planning and Development Committee of the City Council considered the record in this case no. ZPC 01-05-PD, including the Development Plan, and recommended that the City Council overturn the Plan Commission's denial and approve the Planned Development; and

WHEREAS, the Planning and Development Committee made a written record, including findings, at its December 17, 2001 meeting, that the application met the standards for special uses and applicable D4 Downtown District standards and recommended approval thereof; and

WHEREAS, the Planning and Development Committee made certain amendments to proposed Ordinance 122-O-01 at its January 14, 2002 meeting;

WHEREAS, the City Council considered the respective records and recommendations of the Plan Commission and the Planning and Development Committee at its December 17, 2001 and January 14, 2002 meetings; and

WHEREAS, the City Council of Evanston finds that the proposed redevelopment of the Property as a mixed use development in the Planned Development is appropriate, including the required development allowances, all generally as set forth in the Development Plan and herein, and has determined that the approval of the Planned Development and of the Plat of Subdivision as herein set forth and generally as set forth in the Development Plan is in the best interests of the City and meets the standards and

requirements therefor set forth in the Zoning Ordinance, subject to the conditions hereinafter set forth, and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS:

SECTION ONE: That the aforescribed Planned Development, case no. ZPC 01-05 PD, be and it is hereby approved to permit the construction and operation on the Property of a mixed use development substantially in conformance with the D4 Downtown Transition zoning district regulations, the Development Plan as approved by the City, the terms of this Ordinance, and representations of the Applicant to the Plan Commission, the Planning and Development Committee, and City Council.

SECTION TWO: That the City Council adopts the findings of the Planning and Development Committee that the application met the standards for special uses set forth in Section 6-3-5-10 of the Zoning Ordinance, as follows:

- a) Planned developments are a listed special use in the D4, Downtown Transition District.
- b) The proposed planned development is in keeping with the purposes and policies of the Comprehensive General Plan and the Zoning Ordinance, in that the proposed use will increase the vitality of a portion of the Downtown currently devoted to surface parking, will allow existing office users to remain in Evanston, provides more parking than required by the Zoning Ordinance, and, because of the mix of uses, will allow for surplus off-site parking at non-business hours.
- c) The proposed planned development will not have a negative cumulative effect in conjunction with other special uses in the immediate neighborhood and the City as a whole, in that it offers a superior utilization of a portion of the downtown above its present use and will increase the vitality of the Downtown rather than having a negative effect.

- d) The proposed planned development does not interfere with or diminish the value of property in the neighborhood, in that it has no adverse impact on the value of property and encourages a higher incremental assessed valuation for property within the Downtown TIF District.
- e) The proposed planned development can be adequately served by public facilities and services, in that existing streets and other infrastructure are sufficient to meet the proposed development's needs.
- f) The proposed planned development will not cause undue traffic congestion, in that existing streets and other infrastructure are sufficient to meet the proposed development's needs.
- g) The proposed development has no impact on historical and architectural resources, in that the land to be developed is a parking area which neither contains nor abuts historic and architectural resources.
- h) There are no significant natural and environmental features at the site. Given its downtown location in the City's transportation hub, the proposed development will encourage public transit use and will thereby help preserve nature and the environment.
- i) The proposed development will comply with all applicable legislation.

SECTION THREE: That the City Council adopts the findings of the Planning and Development Committee that the application met the standards for planned developments set forth in the Downtown Districts provisions in Section 6-11-1-10(A), Section 6-11-1-10(B), and Section 6-11-1-10(C) of the Zoning Ordinance:

6-11-1-10(A)

- a) The proposed development is compatible with downtown development, and completes the original development scheme for the subject property of having two mid-rise office buildings with adequate parking.
- b) The proposed development encourages pedestrian usage of currently under-utilized downtown streets while not contributing to an over-abundance of small retail space. The development keeps

Evanston competitive in the office-space market and provides a positive increment for the Downtown TIF District.

- c) The proposed development increases the assessed valuation of downtown property, while enhancing land use downtown.

6-11-1-10(B)

The proposed planned development meets all requirements of this Section, relating in general to need for the proposed use and such site controls and standards as safe and convenient, pedestrian and vehicular movement, utility location and capabilities.

6-11-1-10(C)

The proposed development's divergence from as-of-right allowances are well within the planned development allowances. The proposal is within the maximum allowable FAR, without any zoning relief, and the maximum defined building height of 95 feet is considerably less than 125 feet. The development's major divergences from the D4 District's as-of-right requirements, regarding the ziggurat setback and active street level retail or commercial space, are acceptable at this location under the circumstances of this proposal in that they are consistent with the values and goals of the Comprehensive General Plan for Downtown Evanston.

SECTION FOUR: Pursuant to Section 6-3-6-5 of the Zoning Ordinance, a development allowance relative to the regulations of Section 6-16-2-10 of the Zoning Ordinance is hereby granted to waive the requirement set forth in Section 6-16-2-10 of the Zoning Ordinance to permit the construction of a structure on the Property as part of the Planned Development which may include no retail or service uses at the ground level of the portion of the structure fronting Clark Street and Benson Avenue, all generally in accordance with the Development Plan.

SECTION FIVE: Pursuant to Section 6-3-6 of the Zoning Ordinance, a development allowance relative to the regulations of Section 6-11-1-4 of the Zoning Ordinance is hereby granted to waive the requirement set forth in Section 6-11-1-4 of the Zoning Ordinance to permit the construction of a structure on the Property as part of

the Planned Development which shall have no ziggurat setback, all generally in accordance with the Development Plan.

SECTION SIX: Pursuant to Section 6-3-6 of the Zoning Ordinance, a development allowance relative to the regulations of Section 6-11-5-8 of the Zoning Ordinance is hereby granted to waive the requirement set forth in Section 6-11-5-8 of the Zoning Ordinance to permit the construction of a structure on the Property as part of the Planned Development which shall have a defined building height no greater than 95 feet, all generally in accordance with the Development Plan.

SECTION SEVEN: Subject to final approval by the City of structural engineering plans to be prepared and submitted to the City by Owner, and prior execution of an easement or other approval in form and content satisfactory to the City, and including, but not limited to, insurance and indemnification in favor of the City, the improvements to be constructed upon the Property pursuant to the Development Plan shall be permitted to include bell caissons that will extend below grade into the public rights-of-way adjacent to the Property.

SECTION EIGHT: Owner shall maintain the art display to be located on the Clark Street frontage of the Property as depicted on the Development Plan (the "Art Display") in a clean and sightly condition at all times, and shall consult with City Community Development Staff and local arts agencies to make the Art Display available for the display of studio art and/or other educational materials on a reasonable basis. Art display lighting shall be maintained in an operable condition, with burned-out or defective lights promptly replaced, and shall be of a type and design so as to prevent glare encroachment of light on surrounding public or private property. The Applicant

has agreed to place no commercial displays on the Clark Street frontage in the display boxes.

SECTION NINE: Owner shall ensure that at no time shall the lighting on the north side of the structure to be constructed on Lot 1 (adjacent to the residential zoning districts located on the north side of Elgin Road) have an intensity greater than the intensity of the lighting along the southern boundary of the Elgin Road right-of-way adjacent to Lot 1 prior to said construction. Owner shall cooperate with City officials prior to said construction on Lot 1 to measure and create a written record of the average level of light intensity along the southern boundary of the Elgin Road right-of-way adjacent to Lot 1 (the "Measured Lighting Level"). If City officials receive complaints about the intensity of lighting on the north side of the structure constructed on Lot 1 from owners of property located adjacent to the north boundary of the Property and in residential zoning districts under the Zoning Ordinance (and from which said lighting is visible), then Owner shall take all action necessary to reduce the intensity of said lighting to the Measured Lighting Level, including but not limited to the installation of louvers if necessary. If the intensity of said lighting is not greater than the Measured Lighting Level, and the Planning and Development Committee determines that the intensity of said lighting should be reduced or that said lighting should be screened, then Owner shall reasonably cooperate with City officials to reduce the intensity of and/or to screen (by means including but not limited to the installation of louvers, if necessary) said lighting at the City's expense; provided, any such measures undertaken to reduce the intensity of or to screen said lighting shall be subject to the reasonable approval of Owner's architect. All windows located on the north frontage of the office

structure to be constructed on Lot 1 shall be composed of tinted glass and shall be screened with horizontal mini-blinds.

SECTION TEN: All regulations applicable in the D4 Downtown Transition zoning district as provided in the Zoning Ordinance shall govern and remain in full force and effect with respect to the use and development of the Property, except as and to the extent said regulations have been modified by this Ordinance (including the approval of the Development Plan), and the Property may be developed in any manner that conforms to said regulations as modified hereby; provided, however, that any material change in the uses on the Property as shown on the Development Plan, or any additional site development allowances for the Property beyond those granted pursuant hereto, shall require that the Planned Development be modified only as applies to Lot 1 or Lot 2, as applicable, in the manner required for adjustments to planned developments set forth in Section 6-3-6-12 of the Zoning Ordinance.

SECTION ELEVEN: Nothing herein shall be construed to prohibit or in any way restrict the alienation, sale or any other transfer of all or any portion of the Property or any rights, interests or obligations therein, single ownership and control being evidenced by the Planned Development and this Ordinance. A default under this Ordinance, or a violation of the Zoning Ordinance, related to the uses or improvements located upon Lot 1 shall not be deemed such a default or violation related to Lot 2. A default under this Ordinance, or a violation of the Zoning Ordinance, related to the uses or improvements located upon Lot 2 shall not be deemed such a default or violation related to Lot 1.

SECTION TWELVE: Retail and/or service uses shall be permitted in the ground floor area adjacent to Clark Street of the parking structure to be constructed on the Property pursuant to the Planned Development; provided, however, that Type 1 Restaurants shall be permitted on the Property as part of the Retail Area, provided appropriate City approvals are received in advance and said Type 1 Restaurants comply with all applicable legislation. If Owner establishes the Retail Area, then the minimum required number of parking spaces in the Planned Development shall be reduced below 550 by a number equal to the number of parking spaces that are eliminated in the parking structure by the provision of the Retail Space.

SECTION THIRTEEN: During the period of construction of the new improvements to be built on the Property pursuant to the Development Plan, the parking and loading requirements under City ordinances and regulations for the existing improvements on the Property shall be suspended and Owner shall not be required to provide parking or loading facilities for said existing improvements on the Property during such period of suspension; provided, however, Owner shall have the obligation during such period of suspension to lease parking spaces (182 in number) in parking lots or structures located outside of the Property or receive approval of an interim parking plan from the City.

SECTION FOURTEEN: In accordance with the provisions of Section 6-11-1-10(A)(4) of the Zoning Ordinance, if a completed application for a building permit for the improvements described in the Development Plan is not filed with the City within 18 months following adoption of this Ordinance and all applicable building permit fees are not paid within that time, then the Planned Development shall expire and the zoning of

the Property automatically shall revert to the D4 Downtown Transition zoning district without the special use for the Planned Development granted herein. As further provided for in Section 6-11-1-10(A)(4) of the Zoning Ordinance, said 18 month period may be extended if, within that period, upon written request from Owner, City Council determines that good cause for such extension is shown. If construction of the improvements described in the Development Plan is begun and is being diligently pursued within 2 years following adoption of this Ordinance, then the 2-year time period for required completion of the Planned Development set forth in Section 6-11-1-10(A)(4) of the Zoning Ordinance, shall be extended to permit the completion of said construction. If the zoning of the Property reverts to the D4 Downtown Transition zoning district as provided by this Section, then Lot 1 and Lot 2 shall be deemed separate zoning lots; provided, however, that if the parking spaces located upon Lot 1 are required to provide parking for the improvements located upon Lot 2, then the owner of Lot 1 shall be permitted to provide the owner of Lot 2 access to Lot 1 for the purpose of using said parking spaces by means of an easement and shall not be required to convey any interest other than an easement to the owner of Lot 2, and provided further, that said easement shall not relieve Lot 1 and Lot 2 from compliance with all applicable requirements of the Zoning Ordinance.

SECTION FIFTEEN: References herein to the "Zoning Ordinance" shall in all cases mean the Zoning Ordinance in effect as of the date hereof; provided, however, that if the Zoning Ordinance is hereafter amended or interpreted so as to be less restrictive relative to the use and development of the Property than is currently the case, then such less restrictive amendment or interpretation shall control.

SECTION SIXTEEN: References herein to the "Owner" shall in all cases mean Prentiss and any and all successor owners of Lot 1 and/or Lot 2, as applicable.

SECTION SEVENTEEN: Applicant is required to record at its cost a certified copy of this Ordinance along with the development plan in the Cook County Recorder's Office before any permits may be obtained.

SECTION EIGHTEEN: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION NINETEEN: This Ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

AYES: 9

NAYS: 0

Introduced: December 17, 2001

Adopted: January 14, 2002

Approved: January 17, 2002
Jermaine H. Martin
Mayor

ATTEST:

Mary J. Morris
City Clerk

Corporation Counsel:
[Signature]

EXHIBIT A
DEVELOPMENT PLAN

[Attached]

EXHIBIT B
PLAT OF SUBDIVISION

[Attached]