

ORDINANCE NO. 2292

AN ORDINANCE OF THE CITY OF ERLANGER, IN KENTON COUNTY, KENTUCKY, AMENDING THE ERLANGER ZONING ORDINANCE TO CHANGE THE ZONING MAP THEREOF TO RE-CLASSIFY THEREON AN APPROXIMATE 8 ACRE AREA LOCATED ALONG THE WEST SIDE OF KENTON LANDS ROAD, BETWEEN RIGGS ROAD AND CRESCENT AVENUE, APPROXIMATELY 525 FEET NORTH OF CRESCENT AVENUE, FROM THE R-1F AND I-P ZONES TO THE REC ZONE

WHEREAS, Chris Derry, on behalf of Silverlake Properties Ltd., and the city of Erlanger has proposed a map amendment to the Erlanger zoning ordinance, to reclassify thereon an approximate 8.1 acre area located along the west side of Kenton lands road, between Riggs road and Crescent Avenue, approximately 525 feet north of Crescent Avenue, from the R-1F and IP-1 zones to the REC zone; and

WHEREAS, the proposed map amendment was considered by the Kenton County Planning Commission (KCPC) on July 5, 2007, according to the requirements of K.R.S. Chapter 100.211, in proceedings numbered Z-07-06-04/1880R and the KCPC recommended approval thereof to the legislative body of the City of Erlanger;

WHEREAS, on August 7, 2007, the City Council of the City of Erlanger, as the legislative body thereof, voted to accept the recommendation of the KCPC to approve the proposed map amendment;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF ERLANGER, IN KENTON COUNTY, KENTUCKY, AS FOLLOWS:

Section 1.0 — Zoning Map Amendment

The zoning map of the Erlanger zoning ordinance numbered 1850, as previously amended and re-enacted from time to time, is hereby again amended to change the zoning map thereof by re-classifying thereon an approximate 8.1 acre area located along the west side of Kenton Lands Road, between Riggs Road and Crescent Avenue, approximately 525 feet north of Crescent Avenue and more particularly described in an attachment to this ordinance, from the R-1F and IP-1 zones to the REC zone; but with the development thereof and the construction of improvements thereon limited to those identified in the agreed upon Development Plan that was submitted with and was a part of the proposed map amendment, a reduced copy of which is attached to this ordinance.

Section 2.0 — Provisions Severable

The provisions of this ordinance are severable; and the invalidity of any provision of this ordinance shall not affect the validity of any other provision thereof; and such other provisions shall remain in full force and effect as long as they remain valid in the absence of those provisions determined to be invalid.

Section 3.0 — Conflicting Ordinances Repealed

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

Section 4.0 — Effective Date

This ordinance shall be effective as soon as possible according to law after the attached Development Plan Agreement has been signed by Silverlake Properties Ltd. and recorded in the office of the Kenton County Clerk, at Covington, Ky.

Section 5.0 — Publication

(9). This ordinance shall be published in summary pursuant to K.R.S. 83A.060

THOMAS L ROUSE., MAYOR

DEVELOPMENT PLAN AGREEMENT

This Agreement is between the **CITY OF ERLANGER**, a City of the Third Class in Kenton County, Kentucky, its successors and assigns, all of which shall hereinafter be identified and referred to collectively as the “CITY”; and, **SILVERLAKE PROPERTIES LTD.**, a Kentucky Limited Partnership, its successors and assigns, all of whom shall hereinafter identified and referred to collectively as “Silverlake”; and

WHEREAS, Silverlake is the owner of an approximately 8 acre parcel of real estate located along the west side of Kenton Lands Road, between Riggs Road and Crescent Ave., approximately 525 feet north of Crescent Ave. in the City, which is more particularly described in the attached metes and bounds description thereof, and which shall hereinafter be identified and referred to as the “8 acre parcel”; and

WHEREAS, the City is the owner of an approximate 12.14 acre parcel of real estate abutting the aforescribed 8 acre parcel on the southerly side thereof, which includes an approximate 1 acre parcel that abuts the aforescribed 8 acre parcel on the southerly side thereof and is more particularly described in the metes and bounds description thereof attached hereto and incorporated herein by reference; and

WHEREAS, the City has agreed to sell the 1 acre parcel to Silverlake for \$35,300.00 for economic development purposes within the meaning of K.R.S. 82.083(3(b)); and Silverlake has agreed to purchase the 1 acre parcel and use it for the expansion of the economic development of the 8 acre parcel; and

WHEREAS, the 8 acre parcel is within an area now zoned R-1F (a single-family residential zone) and IP-1 (an industrial park zone); and the abutting 1 acre parcel is within an area now zoned R-1F (a single-family residential zone)

WHEREAS, in proceedings numbered Z-07-06-04/1880R of the Kenton County Planning Commission (KCPC), Silverlake and the City have proposed a zoning map amendment to change the R1-F and IP-1 zoning classifications of the 8 acre and 1 acre parcels to REC (a recreational zone); and

WHEREAS, the KCPC considered the aforescribed proposal for a zoning map amendment at a public hearing on July 5, 2007, according to the

requirements of K.R.S. Chapter 100; and recommended approval thereof to the legislative body of the City; and

WHEREAS, the Erlanger zoning ordinance numbered 1850, as previously re-enacted and amended from time to time, requires a Development Plan within the meaning of K.R.S. 100.111(a), as a condition for the proposed zoning map amendment, which, pursuant to K.R.S.100.203(2) shall be followed where agreed upon; and

WHEREAS, in 1998, the 8 acre parcel was owned by Silverlake Recreation L.L.C.; which entered into a Development Plan Agreement with the city for a zoning map amendment for the 8 acre parcel, a copy of which is attached hereto and incorporated herein by reference, and which shall hereinafter be identified and referred to as the “previous development plan”; and

WHEREAS, the 8 acre parcel was developed by Silverlake Recreation L.L.C. according to the previous development plan; and

WHEREAS, reduced copies of the following documents are attached hereto as a preliminary plan for additional development of the 8 acre parcel with the extension thereof into the abutting 1 acre parcel, all of which shall hereinafter be collectively identified and referred to as the “preliminary development plan”:

1. General Site Plan (Reference)
2. Project Site Plan

NOW, THEREFORE, Silverlake and the City hereby agree to the following plan for the supplemental development of the 8 acre and 1 acre parcels, as an expansion of the economic development thereof, and as a condition of the aforescribed zoning map amendment:

Section 1.0 – Stages I and II Development Plans

After the zoning classification of the 8 acre and 1 acre parcels is amended to REC, and without any substantial changes in the design of either the development or the improvement of the 8 acre and 1 acre parcels identified in the preliminary development plan for the supplemental development and improvement of those parcels, Silverlake shall cause the preliminary development plan to be supplemented to conform to all of the requirements for a Stage I Plan and a Stage II Plan provided in Sections 9.20

A and B of the zoning ordinance of the City; and as so supplemented it shall be hereinafter identified and referred to as the “final development plan.”

Section 2.0 – 1 Acre Parcel

After the preliminary development plan has been supplemented to conform to all of the requirements of a Stage I plan and approved by the City, Silverlake shall pay the City the sum of \$35,300.00; and, thereupon, the City shall cause the attached deed to be signed and delivered to Silverlake, in aid of the supplemental economic development of the 8 acre and 1 acre parcels by Silverlake.

Section 3.0 – Supplemental Development of the 8 and 1 Acre Parcels

The improvement and use of the 8 acre and 1 acre parcels shall be restricted to that described in the final development plan and in conformity therewith, and in conformity with this Agreement and all laws, rules and regulations of the United States of America, Commonwealth of Kentucky, County of Kenton, the City and KCPC, including, without limitation, all zoning and property maintenance ordinances of the City, the subdivision regulations of the KCPC, the Kentucky Building Code and the Kentucky Standards of Safety, with the provisions of this Agreement prevailing, to the extent allowed by law, over any other law, rule or regulations in conflict therewith. Additionally the previous development plan shall remain applicable to the 8 acre parcel, and shall also be applicable to the 1 acre parcel, except to the extent that the terms of the previous development plan are contrary to the affirmative provisions of the final development plan, in which event the provisions of the final development plan shall control.

Section 4.0 – Remediation of Conditions or Occurrences in Violation of this Agreement

In the event of any continued condition or occurrence in violation of any of the provisions of this Agreement, by either act or omission, for more than sixty (60) calendar days after a written notice thereof is mailed by the City to the owners(s) of the parcel of real estate upon which such condition or occurrence is located, by Certified Mail, Return Receipt Requested, the City may, in addition to all other remedies provided in this Agreement or otherwise provided by law, enter upon such parcel of real estate and cause the remediation of such condition or occurrence; and thereupon, the owners(s) shall pay and reimburse the City for the reasonable cost and expense of the City in regard to such remediation; and in order to secure the payment thereof, plus the costs of collection,

including, without limitation court costs and reasonable attorneys fees, the City shall have a lien upon the parcel of real estate upon which such remediation has occurred, through an affidavit of the Zoning Administrator of the City filed with the Kenton County Clerk describing the parcel of real estate, the remediation and the cost and expense of the City in regard thereto; provided, however, upon notice of contest from the owner(s) to the City Zoning Administrator, within the sixty (60) day period following notice of the alleged violation, the Developer shall be given a reasonable opportunity to present it's objections/position to the City Zoning Administrator, who shall consider the evidence and make a written decision in regard thereto, which may be appealed by either party pursuant to K.R.S. 100.261.

5.0 — Recordation of Agreement – This Agreement shall be recorded in the office of the Kenton County Clerk at Covington, Kentucky, and Silverlake and all subsequent owners of any interest in any portion of the 8 acre and/or the 1 acre parcel shall be subject to the provisions thereof.

IN WITNESS WHEREOF, this Development Plan Agreement has been signed on September____2007, by **CHRISTOPHER M. DERRY aka CHRIS DERRY**, as a managing partner of Peanut Butter & Jelly, LLC, a Kentucky limited partnership that is the General partner of Silverlake Properties, LTD, a Kentucky limited partnership; and by **THOMAL L. ROUSE**, as Mayor, on behalf of the City of Erlanger, pursuant to an authorization of the City Council therefor.

**SILVERLAKE PROPERTIES LTD.
BY: PEANUT BUTTER & JELLY LLC**

BY: _____
CHRISTOPHER M. DERRY
Member/Manager

CITY OF ERLANGER

BY: _____
THOMAS L. ROUSE., MAYOR

**COMMONWEALTH OF KENTUCKY
COUNTY OF KENTON**

SUBSCRIBED AND SWORN TO before me, A Notary Public, on
September ____, 2007 by **CHRISTOPHER M. DERRY** as Member/Manager and on
behalf of **PEANUT BUTTER & JELLY LLC**, a Ky. limited liability company that is
the general partner of **SILVERLAKE PROPERTIES LTD**, a Ky. limited partnership
and by **THOMAS L. ROUSE**, as Mayor and on behalf of the City of **ERLANGER**.

Signature

Printed name

NOTARY PUBLIC

Kentucky, Stage at Large

Commission Expires: _____