

## Attachment A

May 3, 2017

Village President and Board of Trustees  
Village of Oak Park  
123 Madison Street  
Oak Park, Illinois 60302

**Re: Application for Use-Related Variance for the Property Located at 1116 Lake Street, referred to the Zoning Board of Appeals (Calendar No. 05-17-Z)**

Dear Village President and Board of Trustees:

On March 27, 2017, LMC Oak Park Holdings, LLC, of 1300 E. Woodfield Road, Suite 650, Schaumburg, Illinois (the "Applicant") filed an application (Calendar No. 05-17-Z) with the Zoning Board of Appeals for the Village of Oak Park, seeking a variance from the requirements of Section 3.9.3(F)(2)(e) of the Village Zoning Ordinance ("Transit-Related Retail Overlay District - Use Restrictions"), which prohibits general office uses considered incompatible with retail uses at grade level or on the ground floor of any building or structure unless located at least fifty (50) feet from any street line in areas adjacent to and in close proximity to mass transit stations. The Applicant seeks a variance to allow a general office use (The Emerson Leasing Office) on the ground floor of the existing building within fifty (50) feet of a street line at 1116 Lake Street within the Transit-Related Overlay District ("T-RROD").

A public hearing was held on the application in the Council Chambers of the Oak Park Village Hall, 123 Madison Street, Oak Park, Illinois, on May 3, 2017, at 7:00 p.m. The notice of the time and place of said public hearing was duly published on April 12, 2017, in the

*Wednesday Journal*, a newspaper of general circulation in the Village, and a sign was posted on the Subject Property in accordance with the ZBA's Rules of Procedure.

### **FINDINGS**

This ZBA, having fully heard and considered the testimony of all those present at the hearing who wished to testify and being fully advised in the premises, makes the following findings pursuant to Sections 2.2.4 (A) (2) and 2.2.4 (C) of the Village Zoning Ordinance:

#### **The Subject Property.**

1. The vacant building is located at 1116 Lake Street (the "Subject Property").
2. The Subject Property is located in the B-4 Downtown Business District and in a Transit-Related Retail Overlay District ("T-RROD").
3. The tenant space at 1116 Lake Street is approximately 780 square feet, located on the north side of Lake Street in a vacant tenant space.
4. The Applicant seeks relief from the Transit-Related Retail Overlay District to allow The Emerson Leasing Office to operate on the ground floor of the tenant space located at 1116 Lake Street.

#### **The Applicant.**

5. The Applicant submitted the following written documentation in support of their application, which documents were considered by the ZBA:
  - a. Application for a Zoning Variance;
  - b. Disclosure of Beneficiaries;
  - c. Project Summary;
  - d. Agency Letter;

- e. Response to Standards; and
- f. Floor Plan.

Greater Downtown Master Plan.

6. The Greater Downtown Master Plan (“GDTMP”) was adopted by the Village Board on March 21, 2005, as an update to the Central Business District Master Plan approved in 1994.

7. The GDTMP aims to revitalize retail, reduce traffic congestion, improve transit usage, provide additional open space and enhance pedestrian environment.

8. The GDTMP designates the Subject Property, located on the north side of Lake Street, as a secondary retail street in the Village of Oak Park.

9. The GDTMP identifies the purpose of secondary retail streets as follows:

These areas are for retail uses that do not require the rigorous requirements of exposure or floor plate size. As retail demand grows, these areas provide sites for retail expansion and infill. These streets should be characterized and mainly occupied by locally-owned and operated retail shops and commercial businesses.

10. Based on the GDTMP’s recommendation for secondary streets, the addition of a sales office is not an appropriate use for the area.

Compatibility With the Neighborhood.

11. The character of the neighborhood is concentrated retail, office and service uses.

12. The proposed use would be located in a vacant tenant space.

13. The proposed use is a temporary destination use that could bring customers to the area that could increase foot traffic in the area, which in turn could support the already

existing businesses, especially given the Applicant’s goal of selling residential real estate that would support the retail establishments in the neighborhood.

14. For the above reasons, the proposal would be compatible with the neighborhood.

Use Related Variance.

15. With respect to a use-related variance request, the Zoning Board of Appeals makes a recommendation to the Village Board.

16. The Applicant requests a use-related variance from the T-RROD prohibitions of offices on the first floor within fifty (50) feet of the street.

17. As stated above, the Subject Property is located in the B-4 Downtown Business District and the Transit-Related Retail Overlay District, wherein general office uses are not allowed on the ground floor within fifty (50) feet of any street line.

18. Section 3.9.3(F)(2) (“Use Restrictions”) lists uses that shall not be located at grade level or on the ground floor of any building or structure unless located at least 50 feet from any street line.

19. These listed uses are considered incompatible with or detract from retail vitality on the ground floor of buildings in areas adjacent and in close proximity to mass transit stations.

20. Section 3.9.3(F)(2)(e) specifically lists offices as not being allowed on the ground floor within 50 feet of any street line.

Use Variance Standards.

21. Section 2.2.4(C) of the Village Zoning Ordinance (“Standards for Use-Related Variations”) lays out the five (5) elements that must each be met if the Village is to grant a variance:

1. The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in the district in which it is located;
2. The proposed variance will not merely serve as a convenience to the applicant, but will alleviate some demonstrable and unusual hardship that would result if the strict letter of the regulations were carried out and which is not generally applicable to other property within the same district;
3. The alleged hardship has not been created by any person presently having a proprietary interest in the premises;
4. The proposed variance will not alter the essential character of the neighborhood; and
5. The proposed variance is in harmony with the spirit and intent of this Zoning Ordinance.

22. Each of the above five (5) elements must be met by the Applicant in order to receive a variance from the ZBA.

23. Regarding the above elements, the evidence presented by the Applicant, Village Staff, and upon questioning by the ZBA members at public hearing, the following was found:

- a. The Applicant demonstrated that the Subject Property cannot yield a reasonable return if permitted to be used only under conditions allowed in the T-RROD, given the time period of its vacancy;
- b. The evidence indicated that the proposed variance would not merely serve as a convenience to the Applicant, and would alleviate some demonstrable and unusual hardship which would result if the strict letter of the regulations were carried out and which is not generally applicable to other properties in the District;

- c. The alleged hardship has not been created by any person presently having a proprietary interest in the premises;
- d. The proposed variance will not alter the essential character of the neighborhood, will encourage pedestrian traffic with the ultimate goal of bringing higher residential density to support existing retail downtown; and
- e. The proposed variance is consistent with the spirit and intent of the Zoning Ordinance to bring residents, consumers and pedestrians to the retail areas of the Village of Oak Park.

### **RECOMMENDATION**

Pursuant to the authority vested in it by the statutes of the State of Illinois and the ordinances of the Village of Oak Park, the ZBA recommends to the President and Board of Trustees that the requested use-related variance from the requirements of Section 3.9.3(F)(2)(e) of the Village Zoning Ordinance (Transit-Related Retail Overlay District - Use Restrictions) to allow the tenant space at 1116 Lake Street, a tenant space located at grade or ground level and less than 50 feet from the street line, to be used as an office use (leasing office for The Emerson) within the T-RROD be GRANTED based on the above findings, the testimony and the evidence presented at the public hearing, by a vote of 6-0, subject to the following conditions:

1. The Applicant's use of the Subject Property shall comply in all other ways to the building and zoning requirements of the Village of Oak Park.
2. The Applicant's use of the Subject Property shall substantially comply with the depictions in the plans and drawings submitted and taken into evidence by the ZBA.

3. The use-related variance shall be limited to The Emerson Leasing Office as set forth in the application.
4. The use-related variance shall be temporary in nature, lasting only four (4) months from the date of approval.
5. Upon the failure or refusal of the Applicant to comply with any of the foregoing conditions and restrictions, this variance shall become null and void and the Zoning Administrator is instructed to bring such Zoning Ordinance enforcement as deemed necessary.

This Report ADOPTED by a 6-0 vote of the Zoning Board of Appeals at a public meeting this 3<sup>rd</sup> day of May, 2017.