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2018-16898

07/23/2018 9:43:54 AM

Lloyd J. Dowling

REGISTER OF DEEDS



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**SECOND AMENDMENT TO
PORTAL PLAZA
MIXED USE DEVELOPMENT AGREEMENT**

This Second Amendment to the Portal Plaza Mixed Use Development Agreement (“Second Amendment”), which is made this 17th day of July, 2018 (“Effective Date”) by and between the **CITY OF PAPILLION, NEBRASKA**, a municipal corporation (hereinafter referred to as “City”), and **GILES ROAD NO. 2, LLC**, a Nebraska limited liability company (hereinafter referred to as “Developer”), further amends and modifies the original Portal Plaza Mixed Use Development Agreement (“Original Mixed Use Development Agreement”), as previously amended by the First Amendment to the Mixed Use Development Agreement (“First Amendment”).

RECITALS

City and Developer (collectively, the “Parties”) entered into the Original Mixed Use Development Agreement, which was approved by the City Council of the City of Papillion by Resolution No. R06-0018, on January 17, 2006. Thereafter, the Parties entered into the First Amendment, approved by the City Council of the City of Papillion by Resolution No. R13-0067, on May 7, 2013. The Original Mixed Use Development Agreement, as modified and amended by the First Amendment and this Second Amendment, (collectively the “Agreement”) sets forth certain conditions with respect to the development of property, owned by the Developer, which development is known as Portal Plaza (“Portal Plaza”); and

City and Developer desire to amend the Agreement by amending the Permitted Uses List. The original Permitted Uses List was attached to the Original Mixed Use Development Agreement as Exhibit D. Thereafter, the original Permitted Uses List was rescinded and replaced with a revised Permitted Uses List, attached to the First Amendment as Exhibit D-1; and

Specifically, City and Developer desire to modify and amend the Permitted Uses List to: (1) add Child Care Center as a permitted use type on Lot 5, Portal Plaza with a note acknowledging the allowance of a fenced outdoor play area as required by the Nebraska Department of Health and Human Services, (2) add a note to the Cocktail Lounge use type to explicitly allow outdoor seating or patio seating n Lot 5, Portal Plaza; and (3) clarify the permitted uses and to reflect amendments to Chapter 205, Zoning, Article III having to do with

City of Papillion

Use Types that have been adopted by City since the adoption of the Mixed Use Development Agreement.

NOW, THEREFORE, the following is agreed between the parties hereto:


1. Incorporation of Recitals. The recitals set forth above and elsewhere in the Agreement are, by this reference, hereby incorporated into and deemed part of the Agreement.
2. Capitalized Terms. All capitalized terms used in this Second Amendment shall have the same meanings as set forth in the Original Mixed Use Development Agreement and the First Amendment, except as otherwise specifically defined herein.
3. Area of Application. This Second Amendment applies to Lots 1, 2, 3, 4, and 5, Portal Plaza, and Lot 1, Portal Plaza Replat 1.
4. Amendments: The Agreement terms are hereby modified and amended as follows:
 - a. All references to Exhibit D-1 (Permitted Uses) are hereby rescinded in their entirety and replaced with references to Exhibit D-2 (Permitted Uses).
5. Exhibit Modification. The Agreement exhibits are hereby modified and amended as follows:
 - a. Exhibit D-1 is hereby rescinded in its entirety and replaced with Exhibit D-2, which Exhibit D-2, attached hereto, is hereby incorporated into the Agreement by this reference.
6. No Other Amendments. Except as specifically modified and amended herein, the Agreement shall remain in full force and effect.
7. Binding Effect. This Second Amendment shall be binding upon the Parties hereto, their respective successors, and assigns.

(Signatures on the following pages.)

CITY OF PAPILLION, NEBRASKA, a Municipal corporation,

By: 
David P. Black, Mayor

ATTEST:


City Clerk



GILES ROAD NO. 2, LLC,
a Nebraska limited liability company,

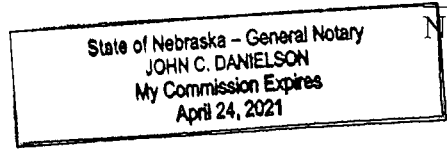
By: *George W. Venteicher*
George W. Venteicher, Managing Member

STATE OF NEBRASKA)
) ss.
COUNTY OF Douglas)

Before me, a notary public, in and for said county and state, personally came George W. Venteicher, Manager Member Giles Road No. 2, LLC, a Nebraska limited liability company, known to me to be the identical person who executed the above instrument and acknowledged the execution thereof to be such person's voluntary act and deed on behalf of said limited liability company.

Witness my hand and Notarial Seal this 9th day of July, 2018.

John C. Danielson
Notary Public



**MIXED USE AGREEMENT AMENDMENT
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INTRODUCTION STATEMENT

RECITALS

SECTION	1	Incorporation of Recitals
	2	Capitalized Terms
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	5	Exhibit Modifications
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	7	Binding Effect

EXHIBITS:

D-2	Permitted Uses
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Exhibit D-2**Permitted Uses****I. Civic Use Types**

- A. Child Care Center (Limited to Lot 5) (A fenced outdoor play area, as required by the Nebraska Department of Health and Human Services, shall be permitted.)

II. Office Use Types

- A. General Offices
- B. Financial Services
- C. Medical Offices

III. Commercial Use Types

- A. Automotive and equipment services (No freestanding car washes shall be allowed except in conjunction with a fuel service station.)
- B. Business Support Services
- C. Business or Trade Schools (Limited to Lots 5, 6, and 7.)
- D. Cocktail Lounge (Outdoor seating or outdoor patio seating shall be permitted on Lot 5.)
- E. Construction Sales and Services
- F. Consumer Services
- G. Food Sales
 - i. Convenience Food Sales
 - ii. Limited Food Sales
 - iii. General Food Sales
- H. Liquor Sales
- I. Personal Services
- J. Pet Services
- K. Retail Services
 - i. Limited Retail Services
 - ii. Large Retail Services
- L. Restaurants
 - i. Restaurant (drive-in/drive-through or fast food)
 - ii. Restaurant (general)
- M. Veterinary Services

IV. Industrial use Types

- A. Custom Manufacturing
- B. Light Industry
- C. Warehousing (Enclosed)

- V. A maximum of fifty (50%) percent of the overall mixed use area may be used for any of the above-referenced uses; provided, however, that there shall be a 12% maximum on the overall mixed use area that may be used for free-standing fast food restaurants.