

**AN ORDINANCE AUTHORIZING A SPECIAL USE PERMIT
FOR A GAS/FILLING STATION AND RELATED VARIATIONS**

(Marathon Gas – 3005 Kirchoff Road)

WHEREAS, 3005 Kirchoff LLC ("**Petitioner**") is the owner of the property commonly known as 3005 Kirchoff Road within the City's C-2 Corridor Commercial zoning district, which property is legally described in **Exhibit A** to this Ordinance ("**Subject Property**"); and

WHEREAS, in order to allow the construction of a new convenience store and additional pumping stations at an existing legally non-conforming gas station on the Subject Property ("**Development**"), Petitioner's agent requested that the City approve: (i) a special use permit authorizing a gas/filling station; (ii) a variation from Section 122-271 to reduce the required rear yard setback from 30 feet to 4 feet; and (iii) a variation from Section 122-152 to accommodate a drive aisle width less than 24 feet (collectively, the "**Requested Relief**"); and

WHEREAS, the Planning and Zoning Commission ("**PZC**"), after notice was provided as required by law, conducted a public hearing on March 7, 2023 at a regular meeting to consider the Requested Relief; and

WHEREAS, after taking and considering all testimony presented at the public hearing, the PZC made the findings of fact enumerated in **Exhibit B** and recommended that the City Council approve the Requested Relief; and

WHEREAS, the Corporate Authorities of the City of Rolling Meadows have determined that it would be in the best interest of the City to approve the Requested Relief in accordance with, and subject to, the conditions, restrictions, and provisions of this Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Rolling Meadows, Illinois:

Section 1: The recitals set forth above are incorporated herein by reference as the findings of the Corporate Authorities.

Section 2: Pursuant to the standards and procedures set forth in Section 122-395 (“Special Uses”), and subject to and contingent upon the conditions, restrictions, and provisions in Section 4 of this Ordinance, the Corporate Authorities hereby approve a special use permit for the operation of a gas/filling station on the Subject Property.

Section 3: Pursuant to the standards and procedures set forth in Section 122-393 (“Variations”), and subject to and contingent upon the conditions, restrictions, and provisions set forth in Section 4 of this Ordinance, the Petitioner is hereby granted the following variations to permit the construction of the Development on the Subject Property:

- A. A variation from Section 122-271 to reduce the required rear yard setback from 30 feet to 4 feet.
- B. A variation from Section 122-152 to allow a drive aisle width less than 24 feet.

Section 4: The special use permit and variations granted in Sections 3 and 4 of this Ordinance are each hereby expressly subject to and contingent on each of the following conditions, restrictions, and provisions:

- A. **No Authorization of Work.** The approvals granted pursuant to this Ordinance do not authorize the development, construction, reconstruction, alteration, demolition, or moving of any buildings or structures on the Subject Property, but merely authorize the preparation, filing, and processing of applications for any permits or approvals that may be required by the codes and ordinances of the City, including without limitation demolition and building permits.

B. Compliance with Applicable Law. In addition to the other specific requirements of this Ordinance, the Subject Property, and all operations conducted thereon and therein must comply at all times with all applicable federal, state, and City statutes, ordinances, resolutions, rules, codes, and regulations, including, without limitation, this Ordinance.

C. Compliance with Plans. Except for minor changes and site work approved by the City's Community Development Director in accordance with applicable City standards, the Subject Property must be developed, used, and maintained in substantial compliance with the plans submitted by the Petitioner to the City with a most recent revision date of March 22, 2023, which consist of eight total sheets prepared by Axios Architects and Consultants, all of which are attached as **Group Exhibit C** (collectively, "**Plans**"). The Plans are subject to the following conditions and modifications:

- i. The Petitioner shall relocate the "Existing Area Light" at the northwestern corner of the Subject Property to be located entirely within the Subject Property.

D. Subdivision Required. The Petitioner shall subdivide the Subject Property into a single lot consistent with the regulations, standards, and procedures of the City's Subdivision Regulations. The subdivision shall dedicate not less than a five-foot wide public utility easement along the Subject Property's easterly property line.

E. Outdoor Activities Prohibited. Outdoor displays or sale of merchandise anywhere within the Subject Property is prohibited except for the tire air dispenser and propane sales enclosure shown on the Plans.

F. Construction Requirements. During construction of the Development:

- i. The Petitioner shall install a construction fence on the south property line and be responsible for repairing any damage to adjoining properties caused by construction.
- ii. The Petitioner shall prohibit its contractors from using the private driveway access on the west side of the property.

Section 7:

A. The City shall not be obligated to issue, and may withhold, building permits, certificates of occupancy, and other approvals that do not completely comply with and satisfy the conditions, restrictions, and provisions of this Ordinance.

B. Upon failure or refusal of the Petitioner to comply with any or all of the conditions, restrictions, or provisions of this Ordinance, the Special Use Permit and Variations granted in Sections 3 and 4 of this Ordinance will, at the sole discretion of the Corporate Authorities, by ordinance duly adopted, be revoked and become null and void.

Section 8: The privileges, obligations, and provisions of each and every section and provision of this Ordinance are for and inure to the benefit of and run with and bind the Subject Property, unless otherwise explicitly set forth in this Ordinance.

Section 9: Nothing in this Ordinance shall create, or shall be construed or interpreted to create, any third-party beneficiary rights.

Section 10:

A. This Ordinance will be effective only upon the occurrence of all of the following events:

- i. Passage by the Corporate Authorities of the City of Rolling Meadows in the manner required by law;
- ii. Publication in pamphlet form in the manner required by law; and,
- iii. The filing by the Petitioner with the City Clerk, for recording in the Office of the Cook County Clerk's Office, of an unconditional agreement and consent to accept and abide by each and all of the terms, conditions and limitations set forth in this Ordinance. The unconditional agreement and consent must be executed by the Petitioner. The unconditional agreement and consent must be substantially in the form attached hereto and incorporated herein as **Exhibit D**.

B. In the event that the Petitioner does not file with the City Clerk the unconditional agreement and consent required by Paragraph 10.A.iii of this Ordinance within 60 days after the date of final passage of this Ordinance, the Corporate Authorities will have the right, in their sole discretion, to declare this Ordinance null and void and of no force or effect.

[Signature page follows.]

PASSED AND APPROVED by the City Council of Rolling Meadows, Cook County,

Illinois this 11th day of April, 2023.

AYES: O'Brien, Vinezeano, Bisesi, Reyez, Sanoica, McHale, Budmats

NAYS: 0

ABSENT: 0



Joe Gallo, Mayor

ATTEST:



Judith Brose, Deputy City Clerk

Published this 14th day of April, 2023.



Judith Brose, Deputy City Clerk

EXHIBIT A

Legal Description of Subject Property

THAT PART OF LOT "S" IN ROLLING MEADOWS UNIT NUMBER 8, BEING A SUBDIVISION IN THAT PART OF THE WEST HALF OF SECTION 36, TOWNSHIP 42 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING SOUTH OF KIRCHOFF ROAD ACCORDING TO THE PLAT THEREOF REGISTERED IN THE OFFICE OF THE REGISTRAR OF TITLES OF COOK COUNTY, ILLINOIS AS DOCUMENT NUMBER LR 1608437 DESCRIBED AS FOLLOWS: COMMENCING AT A POINT ON THE NORTHERLY LINE OF SAID LOT "S" 150.00 WESTERLY OF THE NORTHEASTERLY CORNER OF SAID LOT "S"; THENCE WESTERLY ALONG THE NORTHERLY LINE OF SAID LOT "S" 150.00 FEET; THENCE SOUTHERLY AT RIGHT ANGLES TO THE NORTHERLY LINE OF SAID LOT "S" 150.00 FEET; THENCE EASTERLY PARALLEL TO THE NORTHERLY LINE OF LOT "S" 150.00 FEET; THENCE NORTHERLY PARALLEL TO THE EASTERLY LINE OF LOT "S" 150.00 FEET TO THE PLACE OF BEGINNING, IN COOK COUNTY, ILLINOIS.

PIN: 02-36-105-021-0000

EXHIBIT B

PZC'S Adopted Findings of Fact

Special Use Standards

Standard 1: Potential impact: *The special use shall not unduly impact adjacent or nearby properties or the general health, safety, and welfare of the general area and overall community. Impacts to be considered include ingress and egress to the site, potential traffic impacts from cars and trucks, and impacts to the appearance and character of the area.*

Findings: The proposed special use will not unduly impact adjacent or nearby properties, or the general health, safety, and welfare of the general area and overall community because the gas station use is already established and operating at the subject property. The proposed special use will allow the applicant to improve the site design and aesthetic of the accessory retail store, as well as improve the exterior lot conditions with a new perimeter fencing and landscape elements. While the proposed special use will allow for a larger retail building, the 22,500 sq. ft. lot area total will remain the same. The points of ingress and egress to the subject property will remain the same. The addition of one (1) gas pump to the existing five (5) gas pump total will not generate an undue amount of new customer traffic or congestion. The applicant believes its customer's use and experience at the subject property will be enhanced by the overall site improvements. The resulting gas station, with a new one-story retail building, perimeter fencing, and landscaping elements will improve the property's appearance and not otherwise change the character of the retail property located along Kirchoff Road.

Standard 2: Consistency: *The proposed special use shall be in keeping with the recommendations and intent of the City's Comprehensive Plan, Official Map, and all other plans and policies adopted by the city.*

Findings: The subject property is already improved with an existing and operating gas station and accessory retail building (kiosk). The proposed site improvements and enhancements maintain the existing gas station use and will improve the customer experience at the subject property. The scope of work involved is therefore consistent with the City of Rolling Meadow's Comprehensive Plan, Official Map, and all other plans and policies adopted by the City.

Standard 3: Trend of development: *Special uses should be a logical extension of the trend of development in the area around the subject site and not interfere with the use and development of adjacent or nearby properties.*

Findings: The proposed site improvements and renovations are a logical extension of the trend of development in the area around the subject site and not interfere with the use and development of adjacent or nearby properties. Again, the existing property is improved with an existing and operating gas station and accessory retail store. The proposed special use will allow for a more modern retail building and site improvements that do not change or alter the established principal use at the subject property. The area, generally, is improved with a variety of other retail uses, including but not limited to the strip center immediately north of the subject property, as well as restaurants and commercial offices (all located on Kirchoff Road).

Standard 4: Public facilities: *Adequate public facilities and services shall be available to serve the special use and the property on which it is located; including, without limitation, storm water, sanitary sewer, water service, public safety service, and waste disposal services.*

Findings: Adequate public facilities and services are available to serve the special use and the property on which it is location, because again, the subject property is already improved with an existing and operating five (5) pump gas station and an accessory retail store building. Public facilities and services are already established and support the existing building and uses located at the subject property.

Standard 5: Site design: *The on-site development design shall be understandable to users, safe, and maintainable in terms of road and pedestrian patterns, preserve natural features and incorporate such features into a maintainable development, and provide adequate parking, loading, and site maintenance.*

Findings: The petitioner's team has prepared a site design that is understandable to users, safe, and maintainable in terms of road and pedestrian patterns, preserves natural features and incorporate such features into a maintainable development, and provide adequate parking, loading, and site maintenance. The applicant believes the site improvements will enhance the customer experience at the subject property, and that they are a vast improvement upon the existing building conditions at the subject site. Still, the proposed site design, including the points of ingress and egress, onsite drive aisles, pedestrian walkways, and customer parking areas is generally consistent with the existing design so as not to create undue confusion or increased traffic congestion at the subject property

Variation Standards

Standard 1: Unique physical condition: *The presence of unique physical conditions related to the property that create a hardship or practical difficulty for the applicant to meet the established requirements of this chapter. The applicant must evidence how such unique hardship or practical difficulty is more impactful to meeting the requirements of this chapter than a mere inconvenience.*

Findings: The Applicant is proposing to remove an existing retail kiosk building and construct a new accessory retail store at the rear of the subject lot. The subject property is a square lot measuring 150 ft. wide by 150 ft. deep. The proposed location of the new retail building maintains the existing vehicle driveways and drive aisles around the gas pumping islands. There is no way to locate the proposed accessory building outside of the 30 ft. rear setback without compromising the onsite traffic pattern and creating an impractical and unusable onsite condition.

Standard 2: Impact: *Granting a variance will not substantially impact use and enjoyment of adjacent or nearby properties by impairing an adequate supply of light and air, increasing the risk from fire or other public safety hazard, or diminishing property values. To mitigate impacts, the variance should be the least amount of relief required to accomplish the proposed development.*

Findings: The Applicant is proposing to renovate and improve the building conditions on the subject lot. The property currently operates with a gas station and accessory retail kiosk building. The petitioner's project calls for the removal of the kiosk building and the construction of a new, customer friendly retail building at the rear of the subject lot. Please note the property located immediately to the south of the subject site is improved with a one-story building that encroaches well into that lot's rear setback. The principal use of the gas station will not change. For these reasons, the Variation will not substantially impact the use and enjoyment of adjacent or nearby properties.

Standard 3: Not self-imposed: *The conditions creating the hardship or practical difficulty are a result of application of this chapter, and not self-imposed, having been created by the applicant or by another on behalf of the applicant, or in furtherance of an opportunity for additional profit.*

Findings: The petitioner's plan is to renovate and improve an existing gas station by removing an obsolete retail kiosk building and constructing a new customer friendly retail store at the rear of the subject lot. The proposed location of the new retail store maintains the onsite traffic circulation program on the square-shaped zoning lot. The hardship in this case involves locating the new accessory building in a way that does not disrupt or conflict with the existing traffic patterns at and around the existing gas pumping islands (which will remain in their current locations). The Variation is not exclusively motivated by an opportunity for additional profit.

Standard 4: Use of property: *Use of the property possible under the standards of this chapter, without receiving the requested variance, would deprive the property owner of substantial rights commonly enjoyed by owners of other lots subject to the same provisions. This standard acknowledges that application of zoning standards may create somewhat increased development costs; which do not constitute, in and of themselves, a hardship.*

Findings: Without the Variation, the Applicant would be unable to locate a new accessory retail store onsite without requiring the relocation and reorganization of the existing gas station infrastructure. The practical solution is to locate the accessory building at the rear of the lot so that the existing infrastructure and onsite traffic patterns can be maintained. The proposed retail building will operate accessory to the existing principal use of the gas station at the subject site. The proposed rear setback reduction is consistent and in keeping with the pattern of development in the subject area. To that point, the property located immediately to the south of the subject property is improved with a one-story building that encroaches well into that lot's rear setback (please note the subject lot's south side lot line is shared with the immediate neighbor to the south).

Standard 5: Community character: *Granting a variance will not impair the public health, safety, morals, comfort, or welfare of the community. Further, said variance shall not significantly alter or impact the essential character or trend of development in the general area, including characteristics such as building height and setback, traffic management, landscaping, building orientation, and established aesthetic standards.*

Findings: The project calls for the removal of an obsolete kiosk building and the construction of a new one-story accessory retail building. The proposed building will be customer friendly and accessible (as opposed to the existing retail kiosk), and offer a wider variety of convenience store goods for sale. The proposed store will be an improvement on the existing conditions at the subject property, and enhance the public health, safety, comfort and welfare. The requested Variation will not alter the existing uses established at the subject property, and for that reason it will not impair the public morals. More specifically, the proposed Variation allows for the most efficient use of the subject property with respect to building location, traffic management, landscaping, building orientation, and the established aesthetic standards (replacing an obsolete retail kiosk with a new one-story retail building).

GROUP EXHIBIT C

Plans

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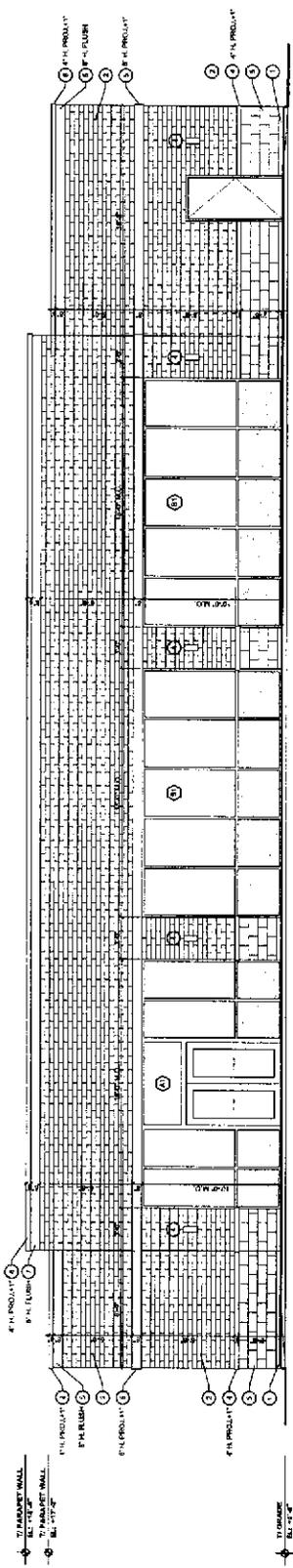
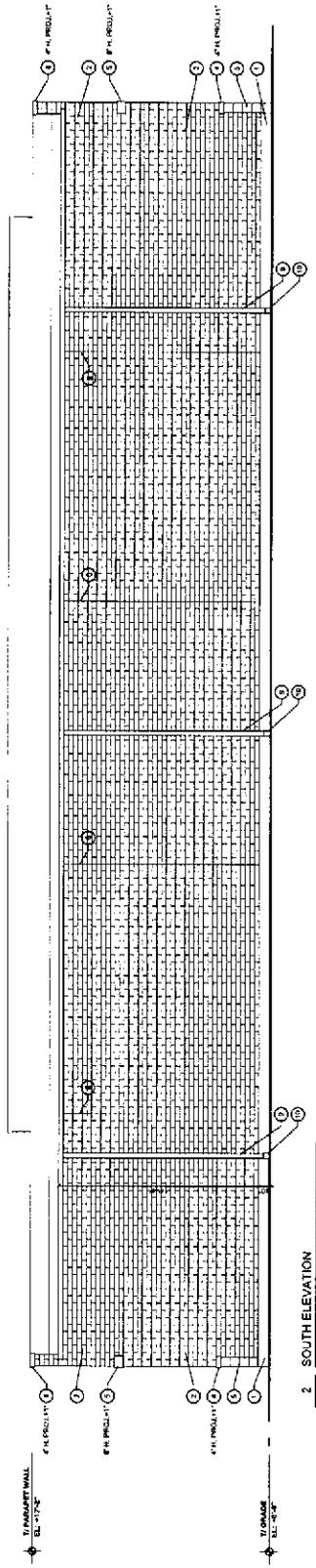
SYMBOL LEGEND	
(1)	MATERIAL TAG
(2)	WINDOW TAG

MATERIAL SCHEDULE	
1. EXPOSED CONCRETE FOUNDATION	1. 1/2" THICK POLYURETHANE FOAM
2. UNGLAZED BRICK	2. PRE-FINISHED ALUMINUM DOWNPOUT
3. 2" STITCHED GUT	3. CAST IRON TUB
4. LIMESTONE SILL WITH INSULATED COP	4. EXTENSION GRADE LIGHT FIXTURE
5. LAMPTRAP PLANTER	5. ELECTRIC SOURCE (SWP)
6. ACCESS DOOR TO BALCONY WITH	6. 3/4" METER
7. PRE-FINISHED ALUMINUM GUTTER	7. PRE-FINISHED ALUMINUM GUTTER

NOTES

1. HEIGHTS TO BE TOP OF FINISHED FLOOR.

2. MAKEUP TO REFER TO FINISH PLANS AND INTERFERE TO MECHANICAL, ELECTRICAL, PLUMBING, HEATING, VENTILATION AND AIR CONDITIONING, GENERAL CONTRACTOR AND HVAC CONTRACTOR.



PROJECT NAME: PROJECT NUMBER: ADDRESS:	BOOK 333 BK. BK. W.C. BV
	ELEVATIONS
BILL C. KOSKALAS ARCHITECT 	A2.0
 XIOS ARCHITECTS AND ASSOCIATES 1000 N. LAUREL STREET, SUITE 200 CHICAGO, ILLINOIS 60610 PHONE: 312.786.1333 FAX: 312.786.1335	PROJECT: 3005 KIRCHOFF ROAD ROLLING MEADOWS, ILLINOIS
OWNER: DATE: DESCRIPTION:	DATE: DESCRIPTION:

EXHIBIT D

Unconditional Agreement and Consent

TO: The City of Rolling Meadows, Illinois ("**City**");

WHEREAS, 3005 Kirchoff LLC ("**Owner**") is the owner of the property commonly known as 3005 Kirchoff Road within the City's C-2 Corridor Commercial zoning district, which property is legally described in the foregoing Exhibit A ("**Subject Property**"); and

WHEREAS, in order to allow the construction of a new convenience store and additional pumping stations at an existing legally non-conforming gas station on the Subject Property ("**Development**"), Owner's agent requested that the City approve: (i) a special use permit authorizing a gas/filling station; (ii) a variation from Section 122-271 to reduce the required rear yard setback from 30 feet to 4 feet; and (iii) a variation from Section 122-152 to accommodate a drive aisle width less than 24 feet (collectively, the "**Requested Relief**"); and

WHEREAS, Ordinance No. 23-12, adopted by the Corporate Authorities of the City of Rolling Meadows on April 11, 2023, ("**Ordinance**") grants the Requested Relief to Owner for the Development at the Subject Property, subject to certain modifications, conditions, restrictions, and provisions; and,

WHEREAS, Subsection 10.A.iii of the Ordinance provides, among other things, that the Ordinance will be of no force or effect unless and until the Owner files with the City Clerk, within 60 days following the passage of the Ordinance, its unconditional agreement and consent to accept and abide by each of the terms, conditions and limitations set forth in said Ordinance.

NOW, THEREFORE, the Owner does hereby agree and covenant as follows:

1. The Owner hereby unconditionally agrees to accept, consent to, and abide by all of the terms, conditions, restrictions, and provisions of the Ordinance.
2. The Owner acknowledges that public notices and hearings have been properly given and held with respect to the adoption of the Ordinance, has considered the possibility of the revocation provided for in the Ordinance, and agrees not to challenge any such revocation on the grounds of any procedural infirmity or a denial of any procedural right.
3. The Owner acknowledges and agrees that the City is not and will not be, in any way, liable for any damages or injuries that may be sustained as a result of the City's issuance of any permits for the Development and the Subject Property, including, without limitation, the planned development amendment approved in the Ordinance, and that the City's issuance of any such permits or approvals does not, and will not, in any way, be deemed to insure the Owner against damage or injury of any kind and at any time.
4. The Owner agrees to and does hereby hold harmless and indemnify the City, the City's corporate authorities, and all City elected and appointed officials, officers, employees, agents, representatives, and attorneys, from any and all claims that may, at any time, be asserted against any of such parties in connection with the operation and use of the Development or the Subject Property, or the City's adoption of the Ordinance.

5. By signing, the Owner, or the individual(s) signing on behalf of the Owner, represents, warrants, and guarantees that they have the legal authority to bind the Owner pursuant to the terms of this Unconditional Agreement and Consent.

Dated: _____, _____.

ATTEST:

OWNER

3005 KIRCHOFF LLC

By: _____

By: _____

Its: _____

Its: _____