

City of Oakbrook Terrace

*City Hall
17W275 Butterfield Rd.
Oakbrook Terrace, IL 60181*



PUBLISHED PAMPHLET FORM THE FOLLOWING:

ORDINANCE NO. 24 - 43

**AN ORDINANCE GRANTING A SPECIAL USE AND VARIATIONS
FROM THE REQUIREMENTS OF THE ZONING CODE FOR THE
PROPERTY COMMONLY KNOWN AS 1S576 MIDWEST ROAD IN
THE CITY OF OAKBROOK TERRACE, ILLINOIS**

**MICHAEL SHADLEY
CITY CLERK
CITY OF OAKBROOK TERRACE**

ORDINANCE NO. 24 - 43

AN ORDINANCE GRANTING A SPECIAL USE AND VARIATIONS FROM THE REQUIREMENTS OF THE ZONING CODE FOR THE PROPERTY COMMONLY KNOWN AS 1S576 MIDWEST ROAD IN THE CITY OF OAKBROOK TERRACE, ILLINOIS

WHEREAS, the City of Oakbrook Terrace (the “City”) is a home-rule unit of local government under Article VII, Section 6 of the 1970 Illinois Constitution and, except as limited by such Section, it may exercise any power and perform any function pertaining to its government and affairs;

WHEREAS, pursuant to Division 13 of the Illinois Municipal Code (65 ILCS 5/11-13-1 *et seq.*) the City Council of the City has heretofore adopted the Zoning Ordinance of the City of Oakbrook Terrace, Title XV, Chapter 156 of the Code of Oakbrook Terrace, Illinois (hereinafter the “Zoning Code”);

WHEREAS, Section 156.024 of the Zoning Code provides that there are special uses which, because of their unique character, cannot be properly classified in any particular district or districts without a case-by-case consideration of the impact of those uses upon neighboring lands, the public need for the particular use at the particular location and the ability of the City or other public agencies to supply the special uses with various community services, such as adequate treatment of waste water, adequate supply of potable water, fire protection, police protection, maintenance of street rights-of-way, and proper traffic safety and which the City Council, after receiving the report of the Planning and Zoning Commission and without further public hearing, may, by ordinance, grant or deny;

WHEREAS, Section 156.023 of the Zoning Code provides that, in cases where there are practical difficulties or particular hardships in the way of carrying out the strict letter of any of the regulations of the Zoning Code, the City Council may, by ordinance, determine and vary the application of such regulations in harmony with its general purpose and intent, and in accordance with the general or specific rules contained in such section;

WHEREAS, Hamra Chicago, LLC (the “Petitioner”), the lessee of Wendy’s Properties, LLC, the lessor and property owner of record, is seeking approval of a special use permit for a drive-through window in the B-3 General Retail Zoning District and variations for the property legally described in Exhibit “A,” attached hereto and made a part hereof (the “Property”) to allow for the redevelopment of a restaurant on the Property;

WHEREAS, specifically, the Petitioner is seeking the following relief:

1. The issuance of a special use permit to develop and operate a restaurant with a drive-through window on the Property;
2. A variation from Section 156.043(B)(l) of the Zoning Code to increase the total permitted area of signs from sixty-eight (68) square feet to one hundred ninety-three and 8/100 (193.08) square feet;

3. A variation from Section 156.087(G)(2) of the Zoning Code to reduce the minimum required side yard setback for paved areas from five (5) feet to approximately three and 5/10 (3.5) feet on the north property line;
4. A variation from Section 156.087(G)(2) of the Zoning Code to reduce the minimum required side yard setback for paved areas from five (5) feet to approximately two and 75/100 (2.75) feet on the south property line;
5. A variation from Section 156.087(G)(3) of the Zoning Code to reduce the minimum required rear yard setback for paved areas from five (5) feet to approximately three (3) feet on the west property line;
6. A variation from Section 156.049(I)(2)(a) of the Zoning Code to reduce the perimeter landscape areas from five (5) feet to approximately three and 5/10 (3.5) feet along the north property line;
7. A variation from Section 156.049 (I)(2)(a) of the Zoning Code to reduce the perimeter landscape areas from five (5) feet to approximately two and 75/100 (2.75) feet along the south property line; and
8. A variation from Section 156.049(I)(2)(a) of the Zoning Code to reduce the perimeter landscape areas from five (5) feet to (3) three feet along the west property line;

WHEREAS, pursuant to the required public notice, a public hearing was held by the City's Planning and Zoning Commission on October 15, 2024, at 6:00 p.m. to consider the Petitioner's application at which time the Planning and Zoning Commission reviewed all relevant staff reports, all required application materials, took sworn testimony and accepted evidence pertaining to the application for consideration of the requested special use and zoning variations, and all persons who desired to be heard on the matter were heard;

WHEREAS, the City's Planning and Zoning Commission having duly considered the question of approval of the special use and the zoning variations reported its recommendation to approve the Petitioner's application to the City Council, a copy of which is marked as Exhibit "B" and is attached hereto;

WHEREAS, the Planning and Zoning Commission, based on the evidence presented at the hearing, considered the impact of the proposed special use upon neighboring lands, the public need for the proposed special use at the Property and the ability of the City or other public agencies to supply the proposed special use with various community services such as adequate treatment of waste water, adequate supply of potable water, fire protection, police protection, maintenance of street rights-of-way, and proper traffic safety and made the following findings with respect to the proposed special use for the Property:

1. The special use is deemed necessary for the public convenience at the Property because there is a need for a restaurant with a drive-through window in the area of the Property;

2. The special use will not be unreasonably detrimental to or endanger the public health, safety, morals, comfort or general welfare because adequate controls are incorporated in the proposed design of the restaurant with a drive-through window to protect the public health, safety, morals, comfort or general welfare of the public;
3. The special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted or substantially diminish or impair property values within the neighborhood because the proposed improvements to the Property are compatible with the use and enjoyment of other property in the immediate vicinity for the purposes already permitted and are expected to enhance the property values within the neighborhood;
4. The special use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district because the area is currently fully developed and is expected to encourage the improvement of surrounding property for uses permitted in the district;
5. The special use will provide adequate utilities, access roads, drainage and other important and necessary community facilities because the proposed special use is currently served by adequate utilities, access roads, drainage and other important and necessary community facilities and will support the continued use and maintenance of those facilities; and
6. The special use will conform to the applicable regulations of the district in which it is located, except as such regulations may be modified by this ordinance;

WHEREAS, the Planning and Zoning Commission, based on the evidence presented at the hearing, determined that the following standards have been met and proved by the Petitioner with respect to the proposed special use for the Property:

1. The special use is deemed necessary for the public convenience at the Property;
2. The special use will not be unreasonably detrimental to or endanger the public health, safety, morals, comfort or general welfare;
3. The special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted or substantially diminish or impair property values within the neighborhood;
4. The special use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district;
5. The special use will provide adequate utilities, access roads, drainage and other important and necessary community facilities; and
6. The special use will conform to the applicable regulations of the district in which it is located, except as such regulations may be modified by this ordinance;

WHEREAS, with respect to the application for variations and based on the evidence presented at the hearing, the Planning and Zoning Commission made the following findings of fact, which are summarized as follows:

1. There are practical difficulties or particular hardships in the way of carrying out the strict letter of the regulations of the Zoning Code regarding the Property;
2. The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations governing the district in which it is located because the property owner has, despite diligent efforts to do so, been unable to redevelop the Property;
3. The plight of the owner is due to unique circumstances related to the location and configuration of the Property and is not of its own creation because the configuration of the Property does not lend itself to the efficient location of the improvements and because of the existing fence on the residential property to the south; and
4. The variations, if granted, will not alter the essential character of the locality because the essential character of the locality is general retail and after the granting of the requested relief, the essential character of the locality will remain general retail;

WHEREAS, the Planning and Zoning Commission, based on the evidence presented at the hearing, determined that the following standards have been met and proved by the Petitioner with respect to the proposed zoning variations for the Property:

1. There are practical difficulties or particular hardships in the way of carrying out the strict letter of the regulations of the Zoning Code regarding the Property;
2. The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations governing the district in which it is located;
3. The plight of the owner is due to unique circumstances related to the location and configuration of the Property and is not of its own creation; and
4. The variations, if granted, will not alter the essential character of the locality;

WHEREAS, in accordance with the aforesaid laws and ordinances, the Planning and Zoning Commission, after making the foregoing findings of fact, recommended approval of the requested special use and zoning variations to permit the construction of a restaurant with a drive-through window on the Property;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Oakbrook Terrace, DuPage County, Illinois, as follows:

Section 1: The facts and statements contained in the preambles to this ordinance are found to be true and correct and are hereby adopted as part of this ordinance.

Section 2: The corporate authorities of the City of Oakbrook Terrace hereby adopt the findings of the Planning and Zoning Commission with respect to the application for a special use and the zoning variations for the Property and find that the applicable standards for requested special use and zoning variations have been met and proved by the Petitioner.

Section 3: A special use permit in the B-3 General Retail zoning district for the development and operation of a restaurant with a drive-through window is hereby approved for the Property.

Section 4: A variation from the requirements of Section 156.043(B)(1) of Chapter 156 (Zoning) of the Code of Oakbrook Terrace, Illinois, to increase the total permitted area of signs from sixty-eight (68) square feet to one hundred ninety-three and 8/100ths (193.08) square feet is hereby approved for the Property.

Section 5: A variation from the requirements of Section 156.087(G)(2) of Chapter 156 (Zoning) of the Code of Oakbrook Terrace, Illinois, to reduce the minimum required side yard setback for paved areas from five (5) feet to approximately three and 5/10 (3.5) feet on the north property line is hereby approved for the Property.

Section 6: A variation from the requirements of Section 156.087(G)(2) of Chapter 156 (Zoning) of the Code of Oakbrook Terrace, Illinois, to reduce the minimum required side yard setback for paved areas from five (5) feet to approximately two and 75/100 (2.75) feet on the south property line is hereby approved for the Property.

Section 7: A variation from the requirements of Section 156.087(G)(3) of the Zoning Code to reduce the minimum required rear yard setback for paved areas from five (5) feet to approximately three (3) feet on the west property line is hereby approved for the Property.

Section 8: A variation from the requirements of Section 156.049(I)(2)(a) of the Zoning Code to reduce the perimeter landscape areas from five (5) feet to approximately three and 5/10 (3.5) feet along the north property line is hereby approved for the Property.

Section 9: A variation from the requirements of Section 156.049 (I)(2)(a) of the Zoning Code to reduce the perimeter landscape areas from five (5) feet to approximately two and 75/100 (2.75) feet along the south property line is hereby approved for the Property.

Section 10: A variation from the requirements of Section 156.049(I)(2)(a) of the Zoning Code to reduce the perimeter landscape areas from five (5) feet to (3) three feet along the west property line is hereby approved for the Property.

Section 11: The special use permit granted by this ordinance shall be subject to termination in the manner provided herein below under any of the following circumstances:

1. Failure to commence construction of the proposed use within eighteen (18) months after the effective date of this ordinance. Construction shall not be deemed to have commenced unless and until:
 - a. All necessary permits have been obtained;

- b. All sites have been properly graded;
 - c. All foundations and footings are in place; and
 - d. Provision has been made for all utilities;
2. Failure to carry the construction work forward expeditiously with adequate forces for a period of eighteen (18) months out of a twenty-four (24) month period;
 3. Following the issuance of occupancy permits, abandonment or other failure to utilize the property for the purposes permitted by the special use for a period of two (2) months out of any consecutive six- (6-) month period.

Section 12: Upon written application, extensions of not to exceed one (1) year for each extension authorized may be granted by the City Council for any time limit specified hereinabove.

Section 13: In determining whether the special use shall be terminated, the Zoning Administrator shall consider the effect of changed conditions, if any, upon the Property. During the time that the Zoning Administrator is considering the disposition of the special use which has *prima facie* been abandoned in accordance with the time limit set forth in this ordinance, no permits shall be issued; and no buildings for which permits have been previously issued shall be constructed until the final decision regarding the future zoning of the Property has been made.

Section 14: This ordinance shall be on file with the City Clerk and shall be recorded with the DuPage County Recorder of Deeds.

Section 15: All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of the conflict.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]

Section 16: This ordinance shall be in full force and effect from and after its passage and approval as provided by law.

ADOPTED this 26th day of November 2024, pursuant to a roll call vote as follows:

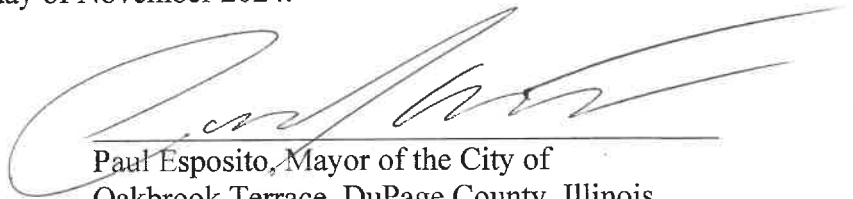
AYES: **Barbari, Beckwith, Rada, Vlach**

NAYS: **None**

ABSENT: **Fitzgerald, Greco**

ABSTENTION: **None**

APPROVED by me this 26th day of November 2024.



Paul Esposito, Mayor of the City of
Oakbrook Terrace, DuPage County, Illinois

ATTESTED and filed in my office,
this 26th day of November 2024.



Michael Shadley, Clerk of the City of
Oakbrook Terrace, DuPage County, Illinois



EXHIBIT "A"

Legal Description

LOT 4 IN AMERICAN NATIONAL BANK TRUST NO. 76808 OWNER'S ASSESSMENT PLAT OF PART OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 21 AND PART OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 22, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED MARCH 23, 1978 AS DOCUMENT R78-23849, IN DUPAGE COUNTY, ILLINOIS.

COMMON ADDRESS: 1S576 Midwest Road, Oakbrook Terrace, Illinois 60181

UNDERLYING P.I.N.: 06-22-301-060

EXHIBIT "B"

**DETERMINATION AND RECOMMENDATION OF THE
PLANNING AND ZONING COMMISSION**

From: City of Oakbrook Terrace Planning and Zoning Commission
To: Mayor and City Council of the City of Oakbrook Terrace, Illinois
Re: PZC Case 25-02 – Special Use and Zoning Variations to construct a restaurant with a drive-through window at 1S576 Midwest Road, Oakbrook Terrace, Illinois.
Petitioner: Hamra, Chicago, LLC, Lessee of Wendy’s Properties, LLC, Lessor and Property Owner

Special Use and Zoning Variation Application requesting permission to construct a restaurant with a drive-through window at 1S576 Midwest Road, Oakbrook Terrace, Illinois.

Due public notice having been published in the *Daily Herald* on September 26, 2024, and otherwise made by the Petitioner in conformity with requirements of Chapter 156 entitled “Zoning” of the Code of Oakbrook Terrace, Illinois, a public hearing was held on the Special Use and Zoning Variation Application on October 15, 2024, at 6:00 p.m. before the City of Oakbrook Terrace Planning and Zoning Commission, at which time the Planning and Zoning Commission reviewed all relevant staff reports, all required Special Use and Zoning Variation Application materials, took sworn testimony and accepted evidence pertaining to the Special Use and Zoning Variation Application for consideration of the requested special use and zoning variations, and all persons who desired to be heard on the matter were heard.

Having duly considered the question of approval of a special use and zoning variations to permit the construction of a restaurant with a drive-through window within the B-3 General Retail zoning district on the property commonly known as 1S576 Midwest Road, Oakbrook Terrace, Illinois (the “Property”) and based on the evidence presented at the hearing, the Planning and Zoning Commission makes the following findings of fact pertaining to the requested special use, which are summarized as follows:

1. The Property is located at 1S576 Midwest Road, Oakbrook Terrace, Illinois. Hamra, Chicago, LLC is the lessee of Wendy’s Properties, LLC, the lessor and property owner of record of the Property;
2. The Property is located within the B-3 General Retail zoning district;
3. The special use is deemed necessary for the public convenience at the Property because there is a need for a restaurant with a drive-through window in the area of the Property;
4. The special use will not be unreasonably detrimental to or endanger the public health, safety, morals, comfort or general welfare because adequate controls are

incorporated in the proposed design of the restaurant with a drive-through window to protect the public health, safety, morals, comfort or general welfare of the public;

5. The special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted or substantially diminish or impair property values within the neighborhood because the proposed improvements to the Property are compatible with the use and enjoyment of other property in the immediate vicinity for the purposes already permitted and are expected to enhance the property values within the neighborhood;
6. The special use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district because the area is currently fully developed and is expected to encourage the improvement of surrounding property for uses permitted in the district;
7. The special use will provide adequate utilities, access roads, drainage and other important and necessary community facilities because the proposed special use is currently served by adequate utilities, access roads, drainage and other important and necessary community facilities and will support the continued use and maintenance of those facilities;
8. The special use will conform to the applicable regulations of the district in which it is located, except as such regulations may be modified by this ordinance.

Based on the evidence presented at the hearing, the Planning and Zoning Commission makes the following findings of fact pertaining to the requested zoning variations, which are summarized as follows:

1. The Property is located at 1S576 Midwest Road, Oakbrook Terrace, Illinois. Hamra, Chicago, LLC is the lessee of Wendy's Properties, LLC, the lessor and property owner of record of the Property;
2. The Property is located within the B-3 General Retail zoning district;
3. There are practical difficulties or particular hardships in the way of carrying out the strict letter of the regulations of the Zoning Code regarding the Property;
4. The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations governing the district in which it is located because the property owner has, despite diligent efforts to do so, been unable to redevelop the Property;
5. The plight of the owner is due to unique circumstances related to the location and configuration of the Property and is not of its own creation because the configuration of the Property does not lend itself to the efficient location of the improvements and because of the existing fence on the residential property to the south; and

6. The variations, if granted, will not alter the essential character of the locality because the essential character of the locality is general retail and after the granting of the requested relief, the essential character of the locality will remain general retail.

We, the Planning and Zoning Commission, therefore, determine that the following standards have been met and proved by the Petitioner pertaining to the requested special use:

1. The special use is deemed necessary for the public convenience at the Property;
2. The special use will not be unreasonably detrimental to or endanger the public health, safety, morals, comfort or general welfare;
3. The special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted or substantially diminish or impair property values within the neighborhood;
4. The special use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district;
5. The special use will provide adequate utilities, access roads, drainage and other important and necessary community facilities; and
6. The special use will conform to the applicable regulations of the district in which it is located, except as such regulations may be modified by this ordinance.

We, the Planning and Zoning Commission, therefore, determine that the following standards have been met and proved by the Petitioner pertaining to the requested zoning variations:

1. There are practical difficulties or particular hardships in the way of carrying out the strict letter of the regulations of the Zoning Code regarding the Property;
2. The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations governing the district in which it is located;
3. The plight of the owner is due to unique circumstances related to the location and configuration of the Property and is not of its own creation; and
4. The variations, if granted, will not alter the essential character of the locality.

In accordance with the aforesaid laws and ordinances, we, the Planning and Zoning Commission, after making the foregoing findings of fact, recommend approval of a special use and the following zoning variations to permit construction of a restaurant with a drive-through window on the Property:

1. A variation from the requirements of Section 156.043(B)(1) of Chapter 156 (Zoning) of the Code of Oakbrook Terrace, Illinois, to increase the total permitted area of

signs from sixty-eight (68) square feet to one hundred ninety-three and 8/100 (193.08) square feet is hereby approved for the Property.

2. A variation from the requirements of Section 156.087(G)(2) of Chapter 156 (Zoning) of the Code of Oakbrook Terrace, Illinois, to reduce the minimum required side yard setback for paved areas from five (5) feet to approximately three and 5/10 (3.5) feet on the north property line is hereby approved for the Property.
3. A variation from the requirements of Section 156.087(G)(2) of Chapter 156 (Zoning) of the Code of Oakbrook Terrace, Illinois, to reduce the minimum required side yard setback for paved areas from five (5) feet to approximately two and 75/100 (2.75) feet on the south property line is hereby approved for the Property.
4. A variation from the requirements of Section 156.087(G)(3) of the Zoning Code to reduce the minimum required rear yard setback for paved areas from five (5) feet to approximately three (3) feet on the west property line is hereby approved for the Property.
5. A variation from the requirements of Section 156.049(I)(2)(a) of the Zoning Code to reduce the perimeter landscape areas from five (5) feet to approximately three and 5/10 (3.5) feet along the north property line is hereby approved for the Property.
6. A variation from the requirements of Section 156.049 (I)(2)(a) of the Zoning Code to reduce the perimeter landscape areas from five (5) feet to approximately two and 75/100 (2.75) feet along the south property line is hereby approved for the Property.
7. A variation from the requirements of Section 156.049(I)(2)(a) of the Zoning Code to reduce the perimeter landscape areas from five (5) feet to (3) three feet along the west property line is hereby approved for the Property.

The Planning and Zoning Commission's Letter of Recommendation is attached.

Dated: October 16, 2024

Chairperson
Patricia Freda

Vice Chairperson
Ann Ventura

Secretary
Sarah Cavazos



Commissioners
Nicole Berkshire
Fabio Cavaliere
Jan Donoval
Douglas Jackson
Michael Sarallo

To: Mayor and City Council
City of Oakbrook Terrace

From: Planning & Zoning Commission

Re: Letter of Recommendation
1S576 Midwest Road
A special use and multiple variations related to setbacks and sign area
Case #25-02

Date: October 16, 2024

Ladies and Gentlemen:

Your Planning and Zoning Commission transmit for your consideration its recommendation to consider a request by the petitioner, Hamra Chicago, LLC as follows:

1. In accordance with Section 156.024 (B) of the Zoning Ordinance a Special Use pursuant to Section 156.087 (C) (36) of the Zoning Ordinance for a Restaurant with a Drive-Through Window.
2. A variation from Section 156.043(B)(1) to increase the total permitted area of signs from 68 square feet to 193.08 square feet.
3. A variation from Section 156.087 (G) (2) of the Zoning Ordinance to reduce the minimum required side yard setback for paved areas from five feet to approximately 3.5 feet on the north property line.
4. A variation from Section 156.087 (G) (2) of the Zoning Ordinance to reduce the minimum required side yard setback for paved areas from five feet to approximately 2.75 feet on the south property line.
5. A variation from Section 156.087 (G) (3) of the Zoning Ordinance to reduce the minimum required rear yard setback for paved areas from five feet to approximately 3 feet on the west property line.
6. A variation from Section 156.049 (I) (2) (a) of the Zoning Ordinance to reduce the perimeter landscape areas from five feet to approximately 3.5 feet along the north property line.
7. A variation from Section 156.049 (I) (2) (a) of the Zoning Ordinance to reduce the perimeter landscape areas from five feet to approximately 2.75 feet along the south property line.
8. A variation from Section 156.049 (I) (2) (a) of the Zoning Ordinance to reduce the perimeter landscape areas from five feet to three foot along the west property line.

After due notice as required by law, the Oakbrook Terrace Planning and Zoning Commission held a public hearing on October 15, 2024. By a vote of 6 to 1, the Planning & Zoning Commission recommended approval of the request.

Respectfully,
Patricia Freda, Chairperson
Planning & Zoning Commission
City of Oakbrook Terrace