

A CONDITIONAL USE FOR A MULTI-FAMILY DWELLING UNIT

20. Petitioner seeks a conditional use to develop the Property with a Multi-Family Dwelling.

21. The proposed conditional use for a Multi-Family Dwelling meets the requirements for a condition use under the Naperville Municipal Code and is appropriate based upon the following factors:

- a. The establishment, maintenance or operation of the conditional use will not be detrimental to, or endanger the public health, safety and general welfare; and*

The proposed conditional use will not be detrimental to or endanger the public health, safety and general welfare. Multi-family uses are well established in the Mill Street Corridor and include Mill Crossing and Mill Orchard Condos. Mill Crossing and Mill Orchard Condos are both located on the west side of Mill Street and act as a transitional use immediately adjacent to existing single-family homes located in Cress Creek. Petitioner's proposed development is similarly situated on the west side of Mill Street and will also serve as a transitional use to adjacent single family residences. However, given the nature of Petitioner's development, it will have less impact on nearby residences than the previously established multi-family uses at Mill Crossing and Mill Orchard Condos.

Petitioner proposes an age-restricted multi-family project. Typically, any form of discrimination is prohibited by federal laws. However, given the unique needs of the senior population, exceptions have been created under federal law to permit discrimination where it is done consistent with a specific set of guidelines and it favors persons over the age of 55. This population of persons over the age of 55 are deemed to have unique interests and needs that justify discrimination against others outside of that age cohort. Petitioner intends to operate the proposed multi-family community consistent with federal regulations that permit age discrimination for the

benefit of those age 55 and over. Accordingly, the development will include unique features specifically targeted to the needs and desires of the targeted resident population. Those features include an approximately 10,000 square foot clubhouse that includes programmed spaces such as fitness and yoga studios, a salon, game rooms, a bar/lounge area, both private and community dining rooms, a large lobby and reception area and administrative offices. An on-site activities director will be responsible for programming at the community, which will include both on-site and off-site activities. The community will have a shuttle-bus to provide group transportation to off-site events or for other activities such as scheduled visits to the mall or the grocery store. Given the resident profile and associated lifestyle, external impacts are significantly reduced because there are fewer residents per dwelling unit and residents will utilize community services at non-peak hours. The establishment and maintenance of the age-restricted multi-family community will not be detrimental to or endanger the public health, safety, and general welfare. Multi-family communities presently operate in the Mill Street Corridor and serve as an appropriate transition between single-family communities to the west and the intensity associated with Mill Street. The proposed age-restricted multi-family community will serve the same purpose, but with significant and material reductions to external impacts (i.e. traffic) on the surrounding community.

b. The conditional use will not be injurious to the use and enjoyment of other property in the immediate area for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood; and

The conditional use will not be injurious to the use and enjoyment of property in the immediate area nor will it impair property values. The Property is designated for “Office, Research and Development” in the East Sector Plan. Under this future land use designation, an industrial zoning designation would be permissible and uses could include things such as medical cannabis distribution, medical cannabis cultivation, laboratories, manufacturing, assembly and food processing. In real estate, uncertainty regarding future development prospects and the possibility

of uses that some may deem incompatible can result in diminution of property values. Through development of the Property, Petitioner will eliminate a large degree of uncertainty from the market and thereby bolster the value of surrounding residential real estate.

The property adjacent to the south and west is utilized for single-family residential purposes. Portions of the nearby properties are developed with higher density attached single-family product, but are single-family residential uses nonetheless. Given the Property's future land use designation of "Office, Research and Development," the only residential use permissible in the associated zoning districts is a multi-family residential use. All other permissible uses would be commercial in nature and would likely result in a more intensive development and use of the Property. A multi-family development is an appropriate transitional use between single family uses and more intensive commercial use corridors. The Mill Crossing and Mill Orchard Condos are nearby examples where a multi-family use provides a transition between lower intensity and higher intensity uses. Portions of Cress Creek are immediately adjacent to Mill Crossing and Mill Orchard Condos, and there is no evidence of any diminution in value of Cress Creek properties based on proximity to these multi-family properties.

c. The establishment of the conditional use will not impede the normal and orderly development and improvement of the adjacent property for uses permitted in the district; and

The conditional use will not impede the normal and orderly development and improvement of the adjacent property for uses permitted in the district. All surrounding property is either developed or, in the case of Truth Lutheran, is in the process of being developed. The proposed development is consistent with the East Sector Plan, shares the zoning of incorporated properties immediately adjacent to the Property and will be compatible with the surrounding environs.

- d. The establishment of the conditional use is not in conflict with the adopted comprehensive master plan.*

Establishment of the conditional use is not in conflict with the adopted comprehensive master plan. Under the East Sector Plan, the Property is designated for “Office, Research and Development.” The appropriate zoning districts for this future land use classification are OCI (Business District) and ORI/RD (Industrial Districts). Petitioner proposes OCI zoning of the property because the permitted uses in the OCI district are more in keeping with the adjacent residential land uses. The proposed multi-family use is a conditional use in the OCI district. Most recently, the City has approved OCI zoning for Harbor Chase (north) and Truth Lutheran (south). While the “religious use” of Truth Lutheran is permitted under the OCI zoning, the City did approve a conditional use for a “convalescent and nursing home” for Harbor Chase. The proposed conditional use for “multi-family dwellings” is similar in character and compatible with the recently approved developments for Truth Lutheran and Harbor Chase.

**A VARIANCE FROM THE LOT AREA REQUIREMENT
IN THE OCI ZONING DISTRICT**

22. Petitioner seeks a variance to reduce the required lot area per Section 6-7F-5 (OCI, Area Requirements), which requires 2,600 square feet of lot area per dwelling unit.

23. The proposed variance meets the requirements for a variance under the Naperville Municipal Code and is appropriate based upon the following factors:

- a. The variance is in harmony with the general purpose and intent of this Title and the adopted comprehensive master plan; and*

The proposed variance is in harmony with the general purpose and intent of the underlying zoning district and the comprehensive plan. The lot area requirement is a measurement of density. That is how many dwelling units are permitted on a per acre basis. Density limitations ensure that public facilities, be it utilities, schools, parks, or roadway infrastructure, are not overwhelmed by

of uses that some may deem incompatible can result in diminution of property values. Through development of the Property, Petitioner will eliminate a large degree of uncertainty from the market and thereby bolster the value of surrounding residential real estate.

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The conditional use will not impede the normal and orderly development and improvement of the adjacent property for uses permitted in the district. All surrounding property is either developed or, in the case of Truth Lutheran, is in the process of being developed. The proposed development is consistent with the East Sector Plan, shares the zoning of incorporated properties immediately adjacent to the Property and will be compatible with the surrounding environs.

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- a. The variance is in harmony with the general purpose and intent of this Title and the adopted comprehensive master plan; and*

The proposed variance is in harmony with the general purpose and intent of the underlying zoning district and the comprehensive plan. The lot area requirement is a measurement of density. That is how many dwelling units are permitted on a per acre basis. Density limitations ensure that public facilities, be it utilities, schools, parks, or roadway infrastructure, are not overwhelmed by

the number of people generated from a development. However, an age-restricted residential development has a substantially different impact on community facilities than would a standard market-rate residential project. This has been widely recognized by the City, the Park District and the School District in the negotiation of impact fees applicable to a development. However, the zoning code has never been updated to reflect the reduced impact an age-restricted development has on the City. For density purposes, the City's zoning ordinance treats a 4-bedroom attached single-family dwelling unit the same as a 1-bedroom age-restricted apartment despite the fact that the impact from these different unit types is obviously disparate.

Petitioner proposes to construct a 146 unit age-restricted multi-family community on the approximately 6.6 acre Property. Based on historic operations of similar communities, Petitioner anticipates that 80% of the units will be single occupancy and that the average resident is a 75 year old widow. The ultimate population of the community is estimated at merely 175 residents. The community is not transient in nature. Residents typically remain in the community for an average of six (6) years, which is typically when the need for additional health care services dictate that the resident move to an assisted living facility such as Harbor Chase. Because of the unique population and impacts associated with an age-restricted community, the proposed lot area deviation does not undermine the intent and purpose of the underlying zoning district.

- b. Strict enforcement of this Title would result in practical difficulties or impose exceptional hardships due to special and unusual conditions which are not generally found on other properties in the same zoning district; and*

Strict enforcement of the Lot Area requirement would result in practical difficulties for the proposed development due to the special and unusual conditions which are not generally found on other properties in the same zoning district. There are two unique conditions applicable to the property which justify the proposed variance: i) stormwater detention has been regionalized,

thereby reducing the area require for the project; and ii) the project is age restricted, which substantially reduces the community impacts that the Lot Area metric is indented to measure.

The stormwater detention for the project is entirely accommodated on the Truth Lutheran Church property. This shared detention concept was facilitated by the underlying property owner of both the Truth Lutheran Parcel and the Property as a means of creating a more efficient and functional use of the property. In creating the shared basin, 100% of the land area for the basin was allocated to the Truth Lutheran Property. Without changing use or function of the shared basin, the land area of the shared basin could be conveyed to Petitioner. By doing so, the area of the Property would be increased and additional units could be accommodated without need for a variance. While the shared detention concept provides undeniable benefits to the community, in strict application here, it serves to exacerbate the lot area variance required by the Petitioner.

The City has a long history of acknowledging that the impact of age-restricted communities is not equal to the impact of a traditional residential community. Impact fees for schools and parks are regularly waived or reduced to account for the unique population associated with an age-restricted community. Similarly, the City has reduced parking requirements and/or permitted increases in density at communities like Tabor Hills, Monarch Landing and Martin Avenue Manor. In each case, the logic for relief relies on the simple fact that there will be less people on a per unit basis and thereby less impact on community services. By way of example, the traffic study submitted herewith shows reduced traffic counts associated with the unique population. Otherwise, we could look to the City's population generation charts. A 110 unit 2-bedroom apartment community (number of units permitted by Code) is anticipated to generate 210 people, significantly more people than Petitioner anticipates will reside at the proposed age-restricted community. The age-restriction associated with the project is a special or unique condition, not

generally found on similar projects and not even contemplated under the City's Municipal Code. To strictly enforce the provisions of the Municipal Code would create exceptional hardship for this particular community because it is centered on a social model by which the community is highly amenitized and provides unique services like an activities director and shuttle services that dictate a certain density of units not otherwise permitted by the Code.

- c. *The variance, if granted, will not alter the essential character of the neighborhood and will not be a substantial detriment to adjacent property.*

The proposed variance will not alter the essential character of the neighborhood nor will it be a substantial detriment to adjacent property. While the Property is presently vacant, the Comprehensive Plan contemplates business or industrial zoning of the Property. Under applicable zoning districts a wide variety of uses are permitted, including multi-family housing. Without the variance, Petitioner could construct 110 units of multi-family housing. However, those multi-family units would not be age-restricted and would generate a larger population, a bigger or similar size building (due to variance in unit types), more children to the school, less positive tax revenue to taxing district, increased demand on utilities and more traffic. Due to unique impacts of the proposed age-restricted community, the proposed variance will result in less impact on adjacent property than otherwise permissible uses in the applicable zoning district.

A VARIANCE FROM THE OFF-STREET PARKING REQUIREMENT

24. Petitioner seeks a variance to reduce the required number of off-street parking spaces per Section 6-9-3.1 (Schedule of Off-Street Parking Requirements, Residential Uses), which requires 2 parking spaces per dwelling unit and requires 0.25 guest parking spaces per dwelling unit.

25. The proposed variance meets the requirements for a variance under the Naperville Municipal Code and is appropriate based upon the following factors:

- a. *The variance is in harmony with the general purpose and intent of this Title and the adopted comprehensive master plan; and*

The proposed variance from the parking requirements is in harmony with the purpose and intent of the underlying zoning district. The parking requirements are intended to ensure that a project provides sufficient on-site parking to meet the specific and unique parking demands of the project. The Parking Needs Analysis submitted herewith details that the age-restricted nature of the project dictates significantly different parking needs than a traditional multi-family project. The Parking Needs Analysis evaluated both industry standard publications and reviewed operational conditions at comparable age-restricted projects. Three industry standard publications were reviewed (Institute of Transportation Engineers, National Parking Association and American Planning Association). The recommended parking supply from these publications ranged from 0.5 spaces/unit to 1 space/unit. To evaluate operational conditions, the parking consultant found 20 comparable communities and evaluated both existing improvements and operations at these comparable communities. The study found that the average parking supply was 1.13 spaces/unit with an absolute maximum of 1.48 spaces per unit. When evaluating the use of these parking spaces, the parking consultant found that the peak demand ranged from 0.32 space/unit to 0.98 spaces/unit. Accordingly, the parking study concludes that 1.13 parking spaces/unit is sufficient supply. Petitioner's proposed supply of 1.55 parking spaces/unit far exceeds all evaluated metrics, and therefore, the proposed variance is consistent with the purpose and intent of the zoning ordinance because the proposed parking supply will be more than sufficient to accommodate peak parking demand for the Avenida project.

- b. *Strict enforcement of this Title would result in practical difficulties or impose exceptional hardships due to special and unusual conditions which are not generally found on other properties in the same zoning district; and*

Strict enforcement of the parking requirements would cause exceptional hardship for the

proposed project given the unique age-restricted nature of the project. As outlined herein, the proposed development is an age-restricted community with unique features not traditionally found in other multi-family projects or contemplated under the City's Municipal Code. Based on historic operation of comparable communities, Avenida anticipates that 80% of units will be single occupancy and that the average resident is a 75 year old widow. The number of residents and the age of the residents serves to reduce the demand for parking. Where off-site trips are required, the community will be served by a shuttle bus service that will be scheduled for off-site group activities, but also available for runs to Downtown Naperville, the mall, the grocery store and/or to doctor's appointments. That being said, the project is designed around a social construct and intended to function as a community within itself. A 10,000 square foot clubhouse and outdoor courtyards are the center of the social construct. These areas will provide both passive amenity spaces (computer lab, private dining room or great room) and areas that are actively programmed by a full-time activities director (outdoor pool, fitness center, yoga studio and great room), which reduces the need for vehicles and the daily number of external trips that residents will take. Requiring the project to comply with the City's standard parking requirements would require reconfiguration of the site to accommodate additional parking and would negatively impact modifications that Avenida has incorporated into the revised plan to increase setbacks and reduce building height at the request of nearby neighbors.

- c. *The variance, if granted, will not alter the essential character of the neighborhood and will not be a substantial detriment to adjacent property.*

The parking variance will not alter the essential character of the neighborhood nor will it be a substantial detriment to adjacent property because the parking needs of the development can be accommodated by the proposed parking supply. The highest parking demand measured in the Parking Needs Analysis was 1.20 spaces/unit, a number that is based on the number of occupied

units rather than the total number of units. Assuming this worst-case ratio for the Avenida project, 175 spaces would be required. Petitioner proposes a parking supply of 227 spaces, or 52 spaces more than the worst-case measured demand under the Parking Needs Analysis. Because all of the parking demand will be accommodated on-site, the proposed variance will not alter the essential character of the neighborhood nor will it be a substantial detriment to adjacent property.

WHEREFORE, by reason of the foregoing, the undersigned Petitioner requests the City Council and Plan Commission take the necessary and appropriate action to (i) subdivide the Property into a single lot of record; (ii) zone the Property in the OCI zoning district upon annexation; (iii) approve a conditional use for a multi-family dwelling; (iv) approve a lot area variance under the OCI District requirements; (v) approve a variance from the parking requirement for multi-family dwellings; and (vi) approve such other variances, departures or deviations as may be deemed necessary to develop the Property according to the plans submitted herewith.