

STATE OF ILLINOIS)
COUNTY OF DUPAGE)
CITY OF NAPERVILLE)

**PETITION TO THE NAPERVILLE CITY COUNCIL AND PLAN COMMISSION
FOR DEVELOPMENT APPROVAL**

THE UNDERSIGNED Petitioner, C & M Land L.L.C., an Illinois limited liability company (hereinafter “the Petitioner”), respectfully petitions the City of Naperville (“City”) to re-subdivide two (2) existing lots located at the corner of N. West Street and Spring Avenue, grant a variance from Section 5-10-3:5.2.4.1 of the City’s Municipal Code to not require a fence along the rear property line, and grant a variance from Section 6-2-10:5 of the City’s Municipal Code to permit a rear yard coverage of 64%, all regarding the property legally described on **Exhibit A** (“Subject Property”) and as depicted on the plans submitted herewith pursuant to the appropriate provisions of the Naperville Municipal Code, as amended (hereinafter the “Code”).

BACKGROUND INFORMATION

1. C & M Land L.L.C., an Illinois limited liability company, with an office at 231 N. West St., Lower Unit, Naperville, IL 60540, is an Owner and Petitioner.
2. Michael R. Jones, Trustee of the Michael R. Jones Declaration of Trust dated December 29, 2005, and Cathy Henderson Jones, Trustee of the Cathy Henderson Jones Declaration of Trust dated December 29, 2005, of 159 Sea Hammock Way, Ponte Vedra Beach, FL 32082, are Owners.
3. The Subject Property upon re-subdivision will consist of 16,906 square feet, exceeding the City’s requirement of 4,000 square feet per dwelling unit for the four (4) units proposed.
4. In conformance with City Code Section 7-1-3-2, the Subject Property will be

consolidated into one lot. Accordingly, (i) the proposed duplex homes are a permitted use in the R-2 zoning district; (ii) the Subject Property will at all times be subject to conditions, covenants and restrictions recorded with the DuPage County Recorder's office and registered as a common interest association with the Illinois Secretary of State; and (iii) the Subject Property will include shared common space, a shared access drive and shared guest parking maintained by the common interest association.

5. The Subject Property is currently occupied by one (1) single family rental home which is depicted on **Exhibit B**.

6. The home located on the Subject Property was built in 1857 and is generally beyond its useful life past the point of repair.

7. The Subject Property is residential in nature, but is located in a transitional area of town near to industrial uses.

8. The existing land uses surrounding the Subject Property are as follows:

- a. North: I & B-3 Zoning: Commercial – Auto Yard – Towing and Storage, ready-mix batch plant & railroad tracks
- b. East: R-2 Residential Zoning: Single-family and two-family homes
- c. South: R-2 Residential Zoning: Single-family homes
- d. West: R-2 Residential Zoning: Single-family homes, two-family homes, and townhomes

SUMMARY OF DEVELOPMENT

The Subject Property is located at the southwest corner of N. West Street and Spring Avenue a short walking distance to downtown Naperville. The nature of the surrounding area includes a variety of uses including both single-family detached homes, single-family attached

homes, commercial and industrial uses. The Subject Property is currently occupied by a single-family home that was built in 1857 and is generally past its useful life. The proposed residential development consisting of two duplex buildings (4 homes) will mark a significant investment in the neighborhood and will be a significant improvement to the existing condition of the Subject Property and surrounding area. Each of the 4 homes will be 1,594 square feet and will include a covered deck or covered patio and a 2-car detached garage for each home.

The proposed architecture will complement the character of the neighborhood and be an improvement over what exists today. Materials include masonry on all four sides of each home, architecture shingles, varying peaks to add interest, and stucco siding which will withstand the test of time, along with extensive windows on all elevations, covered entries, and other decorative details to enhance the overall appearance of the homes. The proposed homes have been designed to be complementary to the surrounding residential homes as well as the townhomes, duplexes and single-family homes along the west property line. Detached garages will provide two (2) parking spaces for each home along the west property line and will be constructed of the same materials, including masonry and stucco to enhance the appearance of the surrounding area. Currently, along the west property line there is a detached garage that is also past its useful life and which will be removed.

This proposed redevelopment will provide a bridge between the industrial uses to the north and the residential uses to the south, east and west. Being residential in nature, the proposed homes will provide a consistent use to the existing residences to the south, east and west and preserve the residential character of the area. They will also provide an excellent land planning transition from the high intensity of railroad tracks and industrial area and will provide a buffer for the residential properties to the south by reducing the noise and disturbances

experienced currently and hopefully spark additional residential investment in this area of the city, including, one day, elimination of the industrial uses to the north. This improvement will be a continuation of the recent Spring Avenue improvements associated with the Burlington Woods Subdivision along Laird Street which included significant improvements along Spring Avenue.

The proposed landscape plan will further improve the overall look of the area which will include sodded yards and parkway trees along Spring Avenue and N. West Street, as well as foundation plantings and other decorative materials to enhance the architecture and look of the neighborhood.

Access and circulation will be improved as part of the project. Access will be provided solely from Spring Avenue where all cars will access via the alley to the garages in the rear of the homes. There is currently an access drive to the rear of the existing home on the Subject Property along with an existing 6' tall fence which will be preserved. The petitioner will also be installing landscape treatments along the access drive. To the west, Spring Avenue terminates in a cul-de-sac bulb, so the proposed driveway location will have no negative impact on the roadway network.

REQUIRED DEVELOPMENT ENTITLEMENTS – R-2 ZONING DISTRICT

1. Re-subdivide two (2) existing lots located at the corner of N. West Street and Spring Avenue (“Subject Property”).
2. Grant a variance from Section 5-10-3:5.2.4.1 of the Code to not require a fence along the rear property line, as there is a fence that currently exists in this location.
3. Grant a variance from Section 6-2-10:5 of the Code to permit a rear yard coverage of 64%.

The proposed entitlement requests meet all City and State requirements for the development of Subject Property and will facilitate the beneficial use of the Subject Property as stated below.

R-2 ZONING DISTRICT

The R-2 Zoning District intent is to “provide multiple-family areas of a low-density character to accommodate a variety of housing types and compatible uses”. The proposed duplex homes will provide for the development of additional housing opportunities for those who currently reside in Naperville or wish to reside in Naperville. It will also provide an opportunity for those seeking a quality two-family dwelling within walking distance of necessities such as pharmacies, retail, and dining and entertainment venues to be able to enjoy such a lifestyle. The proposed development will provide for the improvement of the Subject Property, which will improve property values in the area, as well as the elimination of the existing structures. As a result, the property values in the area will increase and the housing stock will be improved with additional opportunities to live in Naperville. The proposed development is consistent with the City’s master plan for this property and the R-2 Zoning District, which will then help ensure the normal, orderly and desirable development of the Subject Property and adjacent areas.

NAPERVILLE LAND USE MATER PLAN

Consistent with the City’s R-2 zoning district intent, the City’s recent comprehensive plan update includes an analysis of Spring Avenue and also includes the following overall recommendations:

- Increases in housing diversity, including different price points, housing types, and locations should help provide options to appeal to a variety of income levels, including young families, aging residents and people with disabilities.
- The City's housing stock needs to reflect Naperville's increasing diversity... this includes homes of different types, price points, styles and densities.
- Increase the amount of single-family, duplex and townhome rental units to diversify housing and provide affordable options.

VARIANCE FROM CITY CODE SECTION 5-10-3:5.2.4.1 TO NOT REQUIRE A FENCE ALONG THE WEST PROPERTY LINE

- a. Strict enforcement of this chapter would result in practical difficulties or impose exceptional hardships; and*

City Code requires that where a parking lot abuts property zoned for residential use a 6' tall fence be installed along the property line. Here the access drive on the west side of the property will be approximately 8' from the property line which is adjacent to the existing residential single-family detached and single-family attached homes. It is important to note that the Code references parking lots, and the Petitioner is not proposing a parking lot as anticipated in the Code section requiring this fence, but instead a private driveway leading to detached garages. In residential areas it is common for driveways and alleys to be located near residential property lines without the need for 6' tall privacy fencing. Certainly, a commercial parking lot adjacent to residential is an appropriate place for a fence, but that is not the case here. Also, important to note is that there is already a 6' fence in place along the property line owned by the homeowner's association to the west. Therefore, the Petitioner requests to not be required to build a second 6' tall fence adjacent to the existing fence, which would be a waste of resources and which would look odd. Accordingly, strict enforcement would cause the Petitioner to have to build a 6' tall

fence adjacent to an existing 6' tall fence which is a condition not generally found on other residential properties in the same zoning district, and would be a waste of resources as well as detract from the City's intention of providing a positive aesthetic impact.

b. The principal reason for the variance is other than an increased income or revenue from the property; and

There is already a 6' fence in place, so the Petitioner's request to not be required to build a 6' tall fence adjacent to the existing fence is due to practicality concerns, maintenance concerns relating to two parallel fences, and aesthetic concerns. Additionally, having a residential use adjacent to a residential use is consistent with the general purpose and intent of the Code and comprehensive plan for which a privacy fence should not be required. Installation of said second fence would be a waste of resources and would detract from the City's intention of providing a positive aesthetic impact. In lieu of additional fencing, the Petitioner is open to installing additional landscape material along the property line to enhance buffering from the property to the west.

c. The variance, if granted, will not alter the essential character of the neighborhood, will not be a substantial detriment to adjacent property, and will not increase congestion or traffic hazards in the public streets, or otherwise impair the public health, safety, comfort, and general welfare.

The Petitioner is proposing a residential use adjacent to a residential use which is consistent with the general purpose and intent of the Code and comprehensive plan. The requested variance will not alter the essential character of the neighborhood or be a substantial detriment to the adjacent property. In fact, allowing for the variance will provide for redevelopment of the Subject Property with a complementary residential use which will enhance and build upon the essential character of the neighborhood, preserve property values, and hopefully spark additional investment in this quadrant of town. The elimination of a redundant 6' tall fence will provide an

enhancement to the area and avoid an unnecessary expense.

**VARIANCE FROM SECTION 6-2-10:5 OF THE CITY CODE TO ALLOW FOR REAR
YARD LOT COVERAGE OF 64%**

- 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 intent and Title of the Code and comprehensive plan. The R-2 Zoning District intent is to “provide multiple-family areas of a low-density character to accommodate a variety of housing types and compatible uses”. The Petitioner is proposing a low-density duplex development which is a permitted use in the City’s R-2 zoning district and which exceeds the R-2 zoning district density requirement of 4,000 square feet of land area per home. Additionally, the proposed duplex homes are consistent with the City’s comprehensive plan which promotes a diverse housing stock with housing options available for everyone at varying ages with varying needs. The variance arises from the Code requirement that detached accessory buildings and structures not exceed 25% of the required rear yard. In addition to the detached garage, the Code considers the access drive a structure which is included in this calculation. Accordingly, with a rear yard of 3,056 square feet, the permitted coverage would be 764 square feet, and the Petitioner is proposing 1,957 square feet. It is important to note that the access drive makes up a significant portion of this calculation.

The variance will allow the Petitioner to construct new single-family attached homes consistent with the R-2 zoning district intent and comprehensive plan which are accessed from Spring Avenue and not N. West Street. Additionally, the variance will allow Petitioner to provide for covered patios and decks in the rear yard along with detached garages so all residents have covered parking. As a result, the Petitioner is seeking a rear yard coverage variance.

- 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 rear yard lot coverage requirements would cause the Petitioner to have to potentially eliminate the covered garages and would impose exceptional hardships on the Subject Property and future residents. The Petitioner is complying with all required setbacks as well as lot area requirements. Additionally, the detached garages are located in excess of 25' off the property line away from the homes to the west.

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 requested variance will not alter the essential character of the neighborhood or be a substantial detriment to the adjacent property. In fact, allowing for the variance will provide for redevelopment of the Subject Property with a complementary residential use which will enhance and build upon the essential character of the neighborhood, preserve property values, and hopefully spark additional investment in this quadrant of town. The increased rear yard lot coverage area and location of the detached garages will provide for a nice usable rear yard with private patios/decks and a detached garage which is located more than 25' from the west property line. Additionally, the Petitioner owns the property to the south, there is a 6' fence to the property to the west, and the properties to the north are all industrial in nature. Lastly, the Petitioner is exceeding all required setbacks in relation to the location of the detached garages, and many properties in this area have detached garages or other ancillary structures in their rear yards.

WHEREFORE, by reason of the foregoing, the undersigned Petitioner requests the City Council and Plan Commission to re-subdivide two (2) existing lots located at the corner of N. West Street and Spring Avenue, grant a variance from Section 5-10-3:5.2.4.1 of the Code to not require a fence along the rear property line, and grant a variance from Section 6-2-10:5 of the

Code to permit a rear yard coverage of 64%, all regarding the Subject Property and as depicted on the plans submitted herewith pursuant to the appropriate provisions of the Code, as amended.

RESPECTFULLY SUBMITTED this 23rd day of February, 2024.

PETITIONER:

Vincent M. Rosanova

Rosanova & Whitaker, Ltd.

Attorneys for the Petitioner

LIST OF EXHIBITS

EXHIBIT A: LEGAL DESCRIPTION OF SUBJECT PROPERTY

EXHIBIT B: PICTURE OF SUBJECT PROPERTY

EXHIBIT A
LEGAL DESCRIPTION

THAT PART OF THE NORTHWEST QUARTER OF SECTION 13, TOWNSHIP 38 NORTH, RANGE 9, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED BY BEGINNING AT THE INTERSECTION OF THE CENTER LINE OF NORTH WEST STREET WITH THE EASTERLY EXTENSION OF THE NORTH LINE OF LAIRD'S ADDITION, NAPERVILLE, DUPAGE COUNTY, ILLINOIS, AND RUNNING THENCE SOUTH 89 DEGREES 29 MINUTES WEST ALONG SAID NORTH LINE, 195.57 FEET TO THE NORTHWEST CORNER OF LOT 1 OF SAID LAIRD'S ADDITION; THENCE NORTHERLY ALONG THE PROLONGATION OF THE WEST LINE OF SAID LOT 1, 167.9 FEET TO THE CENTER LINE OF WEST SPRING AVENUE; THENCE SOUTH 66 DEGREES 40 MINUTES EAST ALONG SAID CENTER LINE, 201.3 FEET TO THE CENTER LINE OF NORTH WEST STREET; THENCE SOUTH 7 DEGREES 15 MINUTES WEST ALONG SAID CENTER LINE 89.1 FEET TO THE PLACE OF BEGINNING, IN DUPAGE COUNTY, ILLINOIS.

TOGETHER WITH:

LOT 1 (EXCEPT THE SOUTH 11 FEET THEREOF) IN LAIRD'S ADDITION TO NAPERVILLE, BEING A SUBDIVISION IN THE WEST HALF OF SECTION 13, TOWNSHIP 38 NORTH, RANGE 9, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED OCTOBER 10, 1928 AS DOCUMENT 267356, IN DUPAGE COUNTY, ILLINOIS.

PINS: 07-13-106-007 & 07-13-106-006

COMMON ADDRESS: 231 & 241 N. WEST STREET, NAPERVILLE, IL 60540

EXHIBIT B
PICTURE OF SUBJECT PROPERTY

