

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

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

THE UNDERSIGNED Petitioner, Lee Mandel & Associates, Inc., an Illinois corporation (hereinafter “the Petitioner”) respectfully petitions the City of Naperville to i) re-subdivide/consolidate two (2) lots located along Jackson Avenue & Mill Street (“Subject Property”) into one buildable lot; ii) approve a rezoning of the Subject Property from OCI - Office Commercial and Institutional District (“OCI”) to B-5 Secondary Downtown District (B-5); iii) grant a front yard setback variance along Jackson Avenue; and iv) grant other such variances, departures or deviations as may be necessary to develop 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. The Petitioner, Lee Mandel & Associates, Inc., an Illinois corporation, with its office at 415 Jackson Avenue, Naperville, Illinois 60540, is the Petitioner and owner of the Subject Property.
2. The Subject Property consists of two (2) lots totaling approximately 10,934 square feet located at the northwest corner of Mill Street and Jackson Avenue in Naperville, Illinois.
3. The existing land uses surrounding the Subject Property are as follows:
 - a. North: “OCI” Zoning: Naperville Park District maintenance facility

- b. East: “OCI” Parking lot for the Park District community center
 - c. South: “R-1A” Naperville Park District Administration Office and Centennial Beach
 - d. West: “OCI” Contractor showroom
5. The Subject Property is currently occupied by a one-story building which is occupied by the Lee Mandel & Associates accounting firm and its adjacent parking lot.
6. The Subject Property is transitional in nature pursuant to the City’s 2030 Plan.

SUMMARY OF DEVELOPMENT

The Subject Property is located at the northwest corner of Mill Street and Jackson Avenue adjacent to a contractor’s showroom to the west, Centennial Beach and Park District offices to the south, the Alfred Rubin Community Center to the east and the Park District maintenance facility to the north, making the Subject Property transitional in nature. It is currently occupied by a one-story metal frame building used as an accountant’s office and a parking lot servicing the building. The Subject Property is located on the downtown fringe within a short walking distance to Naperville’s acclaimed downtown which offers entertainment, employment, dining, a wonderful social culture, and shopping. The location presents an excellent canvas for an exciting new residential development. The proposed development will consist of a six (6) unit condominium building which will provide a new housing opportunity to those that desire an upscale living environment and associated amenities in close proximity to a bustling downtown, employment opportunities and a variety of retail and convenience uses. The proposed development will create an optimum use of the Subject Property by providing additional opportunities to reside in Naperville while also enhancing our real estate tax base, infusing our local economy with additional income and improving our work force. Being

residential in nature, the proposed six condominiums will provide a complimentary use to the existing nature of the neighborhood and avoid a potential inconsistent use permitted in the existing OCI zoning district.

CITY OF NAPERVILLE 2030 PLAN

In April of 2011, the City of Naperville completed its comprehensive plan update relative to this specific area of the downtown (“2030 Plan”). The proposed development is consistent with the 2030 Plan and its Overall Future Land Use Map, which designates the future land use for the Subject Property as “Secondary Downtown,” the purpose of which is for office, service, and/or residential uses, in a manner less intense than the downtown core. Specifically, residential uses, including condominiums, townhomes, or row houses are permitted with no maximum density limitation. The Secondary Downtown designation of the 2030 Plan directly correlates with the B-5 Secondary Downtown District zoning code designation Petitioner seeks to rezone to, indicating the City’s clear anticipation that the Subject Property would be rezoned to the B-5 designation. The 2030 Plan also notes that consistency with the Future Land Use Map will be gained over time as private property owners request new development or redevelopment projects. Petitioner’s proposed development falls in line with the 2030 Plan description, as Petitioner is a private landowner wishing to rezone the Subject Property to the B-5 district and redevelop the Subject Property with condominiums consistent with 2030 Plan and corresponding B-5 zoning code designation.

As the Subject Property is in close proximity to residential uses, governmental uses and commercial uses, there were many design opportunities to consider. As a result, the site plan included with the application material includes a complimentary use of an upscale building and innovation in site design. First, in consideration of the surrounding area, all fourteen parking

spaces will be located internal to the site and out of sight from the neighboring properties while also providing unit owners' vehicles with access to shelter from the winter elements. Resident access will be from a covered private entrance along Jackson Avenue. Access to parking will be from Jackson Avenue which is a low volume roadway, and no access points are planned to be located along Mill Street. Not proposing access from Mill Street along with elimination of the existing surface parking area will preserve vehicular circulation in the area and improve the look of the property.

To fit within the context of the surrounding neighborhood, the proposed building will evoke traditional forms in line with the area. Significant features will include vertical columns, flat roofs, masonry walls, decorative accents, recessed balconies and an emphasis on their vertical forms and projecting bays. These features are utilized in the proposed building in ways that fit within the neighborhood while still delivering the modern building its users will demand. In addition, the mass is visually broken up to add further aesthetic interest. Elements used to accomplish this goal include large horizontal building sections separated by inset balconies, varying roof heights, towers, varying exterior material colors and projecting window bays. The exterior materials will be predominantly face brick, windows and accents. The brick color will complement the masonry colors of the area. These features are carried through consistently on all four sides of the building.

To properly take into account the proximity to the properties to the west and north, the Petitioner is proposing only a forty six and one half foot (46'6") tall building as measured from the datum points (46'0" from grade) that is setback approximately ten feet (10') from both the north and west property line which is double the required setback and significantly more of a setback than what exists today. Additionally, there is an approximately eight-foot (8') grade

change from the north to south side of the Subject Property which will further reduce the perceived height of the building. In addition, the nearest residential home at the southwest corner of Mill Street and Jefferson Avenue sits at a considerably higher elevation than the proposed building.

Along with exceptional architecture, a well-designed landscape plan will also ensure compatibility with the surrounding area and enhance the appearance of the overall community. Landscape treatments include extensive foundation plantings, ground cover and shrubbery. All landscaping will be installed in excess of City requirements as depicted on the landscape plan included with the application material, including substantial landscape treatments along Mill Street and Jackson Avenue with additional treatments located along the rear of the Subject Property. Sidewalk improvements will be located along both Jackson Avenue and Mill Street to provide for pedestrian connectivity. To avoid unsightly dumpsters throughout the development, the trash enclosure will be located at the interior of the property, hidden from sight.

REQUIRED DEVELOPMENT ENTITLEMENTS – B-5 ZONING DISTRICT

1. To re-subdivide/consolidate two (2) lots located along Jackson Avenue & Mill Street (“Subject Property”) into one buildable lot;
2. To approve a rezoning of the Subject Property from OCI - Office Commercial and Institutional District (“OCI”) to B-5 Secondary Downtown District (B-5);
3. To grant a front yard setback variance along Jackson Avenue; and
4. To grant such other variances, departures or deviations as may be necessary to develop 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”).

REZONING FROM ORI to B-5

The requested Rezoning from ORI to B-5 meets the requirements for a rezoning under the Naperville Municipal Code, and is appropriate based upon the following factors:

- a. *The amendment promotes the public health, safety, comfort, convenience, and general welfare and complies with the policies and official land use plan and other official plans of the City.*

The amendment will promote the public health, safety, comfort, convenience, and general welfare in many ways. First, the amendment will provide for the development of additional housing opportunities to those who currently reside in Naperville or wish to reside in Naperville. It will also provide an opportunity for those seeking an upscale ownership opportunity within walking distance of necessities such as pharmacies, grocery stores, retail and dining and entertainment uses to be able to enjoy such a lifestyle. In addition, the amendment will provide for the development of Subject Property to be utilized for its highest and best use which will in turn support the adjacent commercial development and enhance the City's workforce and retail and property tax bases. The proposed amendment is also in conformance with the City's official plans in that the Subject Property is depicted as residential in the 2030 Plan.

- b. *The trend of development in the area of the Subject Property is consistent with the requested amendment.*

The immediate area adjacent to the Subject Property has essentially sat dormant during the recent past. The Petitioner has met with most of the surrounding neighbors and to date has received very positive feedback on the proposed project. The proposed residential use will complement the surrounding area and mark a significant new investment in Naperville. Additional residents in this specific location would certainly provide a positive boost to the adjacent area.

- c. The requested zoning classification permits uses which are more suitable than the uses permitted under the existing zoning classification.*

The requested zoning classification is directly in-line with the City's vision for this property as evidenced by the 2030 Plan and the proximity of the Subject Property to the City's downtown. There is no doubt that a quality residential condominium building would have a positive impact on the surrounding area. The requested B-5 zoning will permit a desirable upscale residential development, with low traffic generation that will create an efficient use of the Subject Property as well as the resources located in close proximity.

- d. The property cannot yield a reasonable return if permitted to be used only under the conditions allowed under the existing zoning classification.*

The Subject Property and its current zoning designation are not consistent with the City's plan for the Subject Property and the surrounding area as they exist today. The highest and best use is as a residential community, which is in conformance with the 2030 Plan.

- e. The Subject Property has not been utilized under the existing zoning classification for a substantial period of time.*

The Subject Property is occupied by a single-story accounting firm which is inconsistent with the City's vision for the future use and zoning classification of the Subject Property. Additionally, the proposed residential building will feature an internal parking lot as opposed to the existing external parking lot, which will allow for maximum utilization of the Subject Property.

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

The amendment will have a positive effect on the essential character of the neighborhood and will benefit the adjacent properties. The proposed development plans will bring the 2030 Plan closer to fruition, which will not only provide additional housing opportunities, but will also

have a positive effect on the sustainability of the adjacent commercial uses and additional utilization of Park District facilities such as the Riverwalk and Centennial Beach. The net result will be increased viability to the Subject Property and surrounding areas in its entirety and an enhanced retail and property tax base for the City. In addition, the Petitioner has designed the site in a manner which takes the concerns of the adjacent properties, including limiting height to forty six and one half foot (46'6") as measured from the datum points (46'0" from grade), enclosing the dumpsters and parking, and providing additional landscape screening along the parkways.

**VARIANCE TO REDUCE THE FRONT YARD SETBACK FROM FIVE FEET TO
TWO FEET**

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

The variance is in harmony with the general purpose and intent of this Title and the adopted comprehensive master plan. The B-5 zoning district requires a front yard setback of five feet (5'). In this regard the front of the building has been designed with a two-foot (2') front yard setback from the right-of-way line with a downtown feel similar to what you would see adjacent to Ellsworth Station or most other developments located near or in the downtown area. The Subject Property is also unique in that its front yard is located along Jackson Avenue where the setbacks for the other buildings between Ewing and Mill Street are setback 5' (445 Jackson) and 0' (425 Jackson). Also, the existing building located on the Subject Property today is located 2' from Jackson Avenue which is consistent with the surrounding area and the Petitioner's request. Additionally, Jackson Avenue has a right-of-way width of 66' which means there will be 18' between the Jackson Avenue Roadway and the proposed building. The

Petitioner will meet and exceed all other applicable setbacks and the height of the building will be less than what is permitted in the B-5 and OCI zoning districts. Taking these characteristics into account along with the nature and location of the Subject Property and the complimentary landscaping, the requested setback variance is appropriate.

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 this requirement would cause the Subject Property not to be developed in conformance with the 2030 Plan or in conformance with the highest and best use of the land. The hardship arises due to the unique topography of the property. There is a steep grade change from north to south of approximately 8'. Accordingly, in order to provide for a more gradual grade change at the north portion of the property the Petitioner is providing a 10' setback along the north property line instead of the required 5' setback. This then necessitates the required setback variance along Jackson Avenue. Additionally, the City has requested a 10' public utility easement along the north property line. In order for the Petitioner to grant said 10' easement when only a 5' setback is required on the north side, a reduced front yard setback from 5' to 2' is required. Should the front yard setback along Jackson Avenue not be permitted, the interior side yard of 10' on the north side of the Subject Property would have to be reduced by 3' which would bring the building closer to the Park District building and potentially create grading issues between the two buildings. Additionally, should the front yard setback variance not be permitted, then the Petitioner would have to consider reducing the interior parking drive isle width of 24' to 21' which would hinder circulation within the building and parking area.

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 variance, if granted, will help pave the way for a residential development which is in conformance with the 2030 Plan, the City's vision for this parcel and that will be the highest and best use of the property so there will be no detriment to the adjacent properties. By constructing this proposed development, the Petitioner will enhance the overall essential character with a compatible residential use and enhance the area and larger community.

WHEREFORE, by reason of the foregoing, the undersigned Petitioner requests the City Council and Plan Commission to re-subdivide/consolidate 2 lots located along Jackson Avenue & Mill Street ("Subject Property") into one buildable lot, approve a rezoning of the Subject Property from OCI - Office Commercial and Institutional District ("OCI") to B-5 Secondary Downtown District (B-5), grant a front yard setback variance along Jackson Avenue, and such other variances, departures or deviations as may be necessary to develop 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").

RESPECTFULLY SUBMITTED this 26th day of January, 2023.

PETITIONER:

LEE MANDEL & ASSOCIATES, INC,
An Illinois corporation

Vincent Rosanova

Rosanova & Whitaker, Ltd.
Attorneys for the Petitioner

LIST OF EXHIBITS

EXHIBIT A: LEGAL DESCRIPTION OF SUBJECT PROPERTY

EXHIBIT B: PICTURES OF SUBJECT PROPERTY

EXHIBIT C

EXHIBIT A
LEGAL DESCRIPTION

THE SOUTH HALF OF LOTS 10 AND 11 IN BLOCK 2, PLAT OF TOWN OF NAPERVILLE, A SUBDIVISION IN THE SOUTH HALF OF SECTION 13, TOWNSHIP 38 NORTH, RANGE 9, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED FEBRUARY 15, 1842 AS DOCUMENT 131, IN DUPAGE COUNTY, ILLINOIS.

**EXHIBIT B
PICTURES OF SUBJECT PROPERTY**

