

PINs:

**07-04-204-013
07-03-102-007
07-04-204-007
07-04-400-011
07-04-204-008**

ADDRESS:

**-3440 ODYSSEY COURT
-VACANT LAND EAST OF ODYSSEY
COURT AND SOUTH OF FERRY ROAD
-VACANT LAND AT THE NWC
OF ROUTE 59 AND FERRY RD.
-VACANT LAND AT THE SWC OF
ODYSSEY COURT AND FERRY ROAD
NAPERVILLE, ILLINOIS 60563**

PREPARED BY:

**CITY OF NAPERVILLE
LEGAL DEPARTMENT
630/420-4170**

RETURN TO:

**CITY OF NAPERVILLE
CITY CLERK'S OFFICE
400 SOUTH EAGLE STREET
NAPERVILLE, IL 60540**

PZC Case #20-1-022

ORDINANCE NO. 21 -

**AN ORDINANCE APPROVING REZONING FOR CITYGATE WEST FROM I
(INDUSTRIAL) TO OCI (OFFICE, COMMERCIAL, AND INSTITUTIONAL); A
PRELIMINARY SUBDIVISION PLAT; A CONDITIONAL USE FOR A PLANNED
UNIT DEVELOPMENT AND PRELIMINARY PUD PLAT; CONDITIONAL USES FOR
RETAIL, RESTAURANTS, RESIDENTIAL, AND TWO
HOTELS (WITH DEVIATIONS); AND VARIOUS DEVIATIONS**

RECITALS

1. **WHEREAS**, the following entities own the real property which is the subject of this Ordinance located at 3440 Odyssey Court, Naperville, IL 60563 and vacant real property as generally described above, all legally described on **Exhibit A** and depicted on **Exhibit B** ("Subject Property") as follows:

- (i) Chicago Title Land Trust Company, as successor Trustee to Republic Bank of Chicago, not personally but as Trustee under Trust Agreement dated April 24, 1996, c/o Inter-Continental Real Estate & Development Corporation, 2221 Camden Court, Suite 200, Oak Brook, IL 60523;
- (ii) Chicago Title Land Trust Company, as successor Trustee to Republic Bank of Chicago, not personally, but as Trustee under Trust Agreement dated July 22, 1997 and known as Trust Number 1391, c/o Inter-Continental Real Estate & Development Corporation, 2221 Camden Court, Suite 200, Oak Brook, IL 60523; and
- (iii) the Halkias Family Partnership and the Halikias Family Company, LLC, c/o Inter-Continental Real Estate & Development Corporation, 2221 Camden Court, Suite 200, Oak Brook, IL 60523.

The foregoing entities are cumulatively referenced herein as “**Owner**”.

- 2. **WHEREAS**, the provisions set forth and referenced herein are binding upon the Owner and Owner’s successors, assigns, heirs, and transferees.
- 3. **WHEREAS**, the Subject Property is zoned I (Industrial District) and is comprised of approximately 60.226 acres located in the City of Naperville at 3440 Odyssey Court (the site of the former Odyssey Fun World) and on vacant property as generally described herein; and
- 4. **WHEREAS**, Inter-Continental Real Estate & Development Corporation, 2221 Camden Court, Suite 200, Oak Brook, IL 60523 (“**Petitioner**”), as authorized by the Owner, has petitioned the City of Naperville for approval of the following entitlements for the Subject Property per PZC 20-1-022 - CityGate West (hereinafter referred to as “**CityGate West Requested Entitlements**”):

1. Rezoning the Subject Property from I (Industrial District) to OCI (Office, Commercial, and Institutional District).
2. Approval of a Preliminary Plat of Subdivision for CityGate West.
3. Approval of a conditional use for a Planned Unit Development and Preliminary PUD Plat for CityGate West.
4. Approval of a conditional use in accordance with Section 6-7F-3:2 (OCI: Conditional Uses) and deviations (set forth below) to permit four hundred and ten (410) multi-family residential units on Lot 4 of CityGate West:
 - a. A deviation from Section 6-7F-5:2 (OCI: Area Requirements) to reduce the required lot area from 2,600 square feet to 760 square feet per dwelling unit.
 - b. A deviation from Section 6-7F-8:1 (OCI: Height Limitations/Bulk Regulations) to allow the buildings to exceed the maximum permitted height of forty-three (43) feet and measure sixty-six (66) feet in height.
 - c. A deviation from Section 6-9-3 (Schedule of Off-Street Parking Requirements) to reduce the required parking ratio for multi-family residential from 2.25 parking spaces per dwelling unit to 1.66 parking spaces per dwelling unit.
5. Approval of a conditional use in accordance with Section 6-7F-3:3 (OCI: Conditional Uses) to permit retail uses on Lots 4, 12, and 13 of CityGate West.
6. Approval of a deviation from Section 6-9-6:2.3 (Supplemental Standards for Drive-Through Stacking Lanes: Stacking Lane Design) for the retail building proposed on Lot 12 of CityGate West.
7. Approval of a conditional use in accordance with Section 6-7F-3:12 (OCI: Conditional Uses) and a deviation from Section 6-7F-4 (OCI: Required Conditions for All Uses) to permit a full-service hotel on Lot 11 which is less than 150,000 square feet in size; does not have a banquet and/or meeting space for at least five hundred (500) persons; and does not have a restaurant within the physical confines of the hotel.
8. Approval of a conditional use in accordance with Section 6-7F-3:12 (OCI: Conditional Uses) and deviations from Section 6-7F-4 (OCI: Required Conditions for All Uses) and Section 6-9-3 (Schedule of Off-Street Parking Requirements) to permit a full-service hotel on Lot 15 which is less than 150,000 square feet in size; does not have a banquet and/or meeting space for at least five hundred (500) persons; does not have a restaurant within the physical confines of the hotel; and reduces required parking for the full-service hotel and associated uses from six hundred eighty two (682) parking spaces to six hundred sixteen (616) parking spaces.
9. Approval of a conditional use in accordance with Section 6-7F-3:14 (OCI: Conditional Uses) to permit eating establishments on Lots 1, 2, 6, 7, 8, 9, 12, 13 and 16 of CityGate West.

10. Approval of the following deviations to permit the CityGate West monument signs:
 - a. Deviation from Section 6-16-5:2.2.2 to increase the permissible sign area from 90 square feet to 315.5 square feet.
 - b. Deviation from Section 6-16-5:2.2.3 to increase the permissible changeable signage area from 45 square feet to 120 square feet.
 - c. Deviation from Section 6-16-3.7 to permit off-premises signage.
 11. Approval of the following deviations to permit the CityGate West development signs:
 - a. Deviation from Section 6-16-5:2.2.2 to increase the permissible sign area from 90 square feet to 191 square feet.
 - b. Deviation from Section 6-16-5.2.2.3 to increase the permissible changeable sign area from 45 square feet to 81 square feet.
 - c. Deviation from Section 6-16-5.2.2.4 to increase the permissible sign height from 10 feet to 25 feet.
 - d. Deviation from Section 6-16-3.7 to permit off-premises signage.
 12. Approval of the following deviations to permit the CityGate West tollway signs:
 - a. Deviation from Section 6-16-5:2.2.8.2 to increase the total amount of permissible signage from 120 square feet to 248.8 square feet and to increase the permissible square footage for a changeable copy sign from 60 square feet to 180 square feet.
 - b. Deviation from Section 6-16-5:2.2.8.3 to increase the permissible height from 25 feet to 30 feet.
 - c. Deviation from Section 6-16-3.7 to permit off-premises signage.
 13. Approval of a deviation from Section 6-16-3 (Prohibited Signs) to permit an LED panel on Lots 4 and 16 of CityGate West.
 14. Approval of a deviation from Section 6-16-5.2.2.3 to increase the permissible height of the ground sign on Lot 15 from twenty-five (25) feet to forty-five (45) feet.
 15. Approval of a deviation from Section 6-4-8:1 (Planned Unit Development: Effective Period of a Planned Unit Development) to increase the time period to file for final PUD plat to five (5) years from two (2) years; increase the time period to commence construction after approval of the final PUD plat to three (3) three years from two (2) years; and increase permitted extensions to up to three (3) years from one (1) year.
5. **WHEREAS**, on November 18, 2020 and December 16, 2020, the City's Planning and Zoning Commission conducted a public hearing regarding the CityGate West Requested Entitlements for the proposed CityGate West development ("**Development**"); and
 6. **WHEREAS**, at the conclusion of the public hearing, the Planning and Zoning Commission recommended approval of all of the CityGate West Requested Entitlements

with the exception of the hotel proposed on Lot 11 (hereinafter referred to as “**CityGate West Recommended Entitlements**”), finding that the hotel proposed on Lot 11 neither satisfies the intent nor the definition of the City’s full-service hotel requirements; and

7. **WHEREAS**, notwithstanding the foregoing, the City Council finds that, subject to the terms and conditions set forth and referenced herein, the CityGate West Requested Entitlements, including the hotel proposed on Lot 11, meet the standards for approval as provided in **Exhibit C** attached hereto and should be approved for the Subject Property as provided herein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NAPERVILLE, DUPAGE AND WILL COUNTIES, ILLINOIS, in exercise of its home rule powers, as follows:

SECTION 1: The foregoing Recitals are incorporated herein as though fully set forth in this Section 1. All exhibits referenced in this Ordinance shall be deemed incorporated herein and made part hereof.

SECTION 2: The CityGate West Requested Entitlements are hereby approved subject to the following conditions:

- A. Compliance with the requirements of the Naperville Municipal Code, as amended from time to time, (also referenced herein as the “**Naperville Municipal Code**”, **City Code**” or “**Code**”), including but not limited to conditional use and planned unit development requirements.
- B. A final plat of subdivision for the entire Subject Property must be approved by the City and recorded prior to consideration of any final PUD Plat for any Phase (“**Phase**”) of the Subject Property. An overall Owner’s Acknowledgment and Acceptance Agreement (“**OAA**”) approved by the City Attorney for the Development shall be incorporated as an exhibit to the ordinance approving the final subdivision plat. In addition, unless otherwise determined to be unnecessary by the City Zoning Administrator, an OAA shall be required for approval of each Final PUD Plat for each Phase of the Subject Property.
- C. The following shall be included with submission of a Final PUD Plat for each Phase of the PUD: final landscape plan; final open space exhibit; Century

Walk improvements; refuse plan; final building elevations in compliance with the Citywide Building Design Guidelines then in effect and also consistent with the design intent of the approved Preliminary PUD; final signage plan; and a detailed design schedule per proposed building which includes final building square footage, final residential unit counts/hotel rooms (as applicable), tenant data needed to determine required parking, and parking spaces to be provided to satisfy Code requirements.

- D. Shared parking cross access easements over the entire PUD shall be submitted for approval to the City Attorney and recorded prior to recordation of the first Final PUD Plat for any portion of the Subject Property. For each Phase, if required parking cannot be provided wholly with the parameters of that Phase, parking available on other Phases provided may be relied upon with the approval of the Zoning Administrator if such parking complies with the requirements of Section 6-9-2:1-3 of the Code.
- E. Concurrent with the first Final PUD Plat, Petitioner shall submit an exhibit depicting access points, driveways and utilities, which shall be subject to review and approval by the City Engineer, that will be required to be constructed prior to issuance of an occupancy permit for any use contained within the first final PUD Plat. The City Engineer shall review each subsequent Final PUD Plat to determine additional access points, driveways and utilities which shall be required to be constructed prior to issuance of an occupancy permit for that portion of the Development.

Financial surety, in an amount approved by the City Engineer and in a form and from a source approved by the City Attorney, shall be submitted with for each Final PUD Plat.

- F. Reserved.
- G. The City will accept Final PUD Plats in Phases for the Development as described herein subject to the requirement that each Phase must achieve final PUD plat within five (5) years from approval of the Preliminary PUD. Any portion of the Subject Property for which a final PUD Plat has not been approved by City Council within five (5) years from the date of approval of the Preliminary PUD Plat shall be subject to revocation in whole or in part by the City Council at its sole discretion. The two residential structures on Lot 4 shall be submitted together as one Phase. The hotel and amenities on Lot 15 shall also be submitted as one Phase.
- H. Construction shall commence within three (3) years of the date of approval of each Final PUD Plat and shall be completed in the timeframe stipulated on the Phasing Plan. Failure to complete construction within that timeframe may result in the City's refusal to issue additional construction or occupancy permits on other portions of the Development until an amendment to the overall OAA and/or the OAA applicable to the specific Phase in question, as determined appropriate by the City Zoning Administrator, has been approved by the City.

- I. The number of residential units on Lot 4 may not be increased over two hundred and five (205) per each structure; the unit mix (i.e., studio, one-bedroom and two-bedroom units) approved on the Preliminary PUD Plat shall not be altered without prior approval of the City Council. The land/cash donation required under the Code shall not be paid under objection and shall be paid per permit in compliance with Section 7-3-5 of the Code then in effect (with each structure receiving a single permit).
- J. At least one restaurant must be operational within the Development prior to and at the time an occupancy permit is issued for the hotel on Lots 11 or the hotel on Lot 15 (whichever comes first). In addition, at least one restaurant shall provide room service to guests of any operating hotel within the PUD.
- K. A banquet facility (sufficient for not less than five hundred (500) people) and a Hotel on Lot 15 shall be simultaneously constructed and operational. Said Hotel and banquet facility shall at all times remain under unified ownership to facilitate ongoing compliance with the City Code full-service hotel requirements unless otherwise approved based on alternative measures approved through an amendment to the OAA for that Phase. An occupancy permit shall not be issued for the Hotel until the banquet facility is operational.

Notwithstanding the foregoing, if the entertainment venue, as set forth in the Petition, for greater than five hundred (500) people is constructed and operational on Lot 15 simultaneously with the Hotel and banquet facility, the banquet facility may accommodate less than the five hundred (500) people required by Code but shall not accommodate less than three hundred and sixty (360) people as set forth in the Petition. If the entertainment venue is not constructed and operated simultaneously with the Hotel, Petitioner will be required to submit plans with the Final PUD Plat for that Phase which set forth interim improvements that will be made to the existing Odyssey Fun World building, including but not limited to: removing all existing signage, addressing any exterior property and/or building maintenance issues, and improving the overall building aesthetics.

- L. Upon submittal of a Final PUD Plat which includes the Hotel on Lot 15, Petitioner will provide details regarding the proposed banquet/and/or meeting space intended to fulfill the full-service hotel requirements set forth in the City Code. The banquet and/or meeting space shall be sufficient for not less than five hundred (500) people, except as specifically provided in Condition K above. The City Zoning Administrator will determine whether what is submitted as a banquet facility/meeting space is consistent with the banquet facility/meeting space approved with the Preliminary PUD. The preliminary elevations that were submitted by the Petitioner for the Hotel, banquet and/or meeting space, and music/theater venue located on Lot 15 of the Development are not in compliance with the Citywide Building Design Guidelines. Elevations shall be submitted with the Final PUD for Lot 15 and shall be reviewed for compliance with all City requirements.

- M. On the first of any final PUD plat submitted for a Phase of the PUD which includes a perimeter restaurant or retail pad, Petitioner shall elect which of the two options presented at preliminary PUD will be used.
- N. The structures on Lot 4 shall each include retail and office uses on the first floor. The first floor may contain work space affiliated with a residential live-work rental unit; however, said first floor space shall not include any bedroom units.
- O. Following approval of the parking and stacking deviations set forth herein, if the City's Zoning Administrator determines that the current and/or future tenants' parking needs cannot be accommodated within the parking on the Subject Property, the Owner of the Subject Property shall promptly take adequate measures to meet the parking needs of said tenants, including but not limited to formally assigning/reserving parking spaces for each unit, restricting the number of leasable units, or establishing an overflow parking location off-site, as necessary, which measures shall be subject to the review and approval of the Zoning Administrator. Failure to timely take adequate measures to adequately accommodate tenant parking needs on the Subject Property to the satisfaction of the City's Zoning Administrator may result in the City's revocation of one or more of the deviations approved herein.
- P. The properties identified on the conceptual phasing plan as Sheet L1.2 (other than those portions designated as hotel/retail/restaurant and retail/MOB) and L1.3 are reserved for stormwater detention and open space.
- Q. Any Final PUD Plat for any Phase of the Subject Property which does not meet required conditions set forth or referenced herein, or which is not in compliance with the Naperville Municipal Code (unless variances or deviations therefor have been approved), shall not be considered to be substantially in conformance with the Preliminary PUD Plat. Revisions which are proposed which are not in substantial conformance with the Preliminary PUD Plat, and any new deviations sought, shall be referred to the PZC for consideration. The reconfigured Lot 4 (previously Lot 4, 5, and a portion of 16) shall not result in, nor justify, any new zoning deviations for the remaining lots impacted by this reconfiguration. If any proposed building or lot does not meet minimum zoning requirements as a result of the reconfigured Lot 4, other than those deviations specifically granted for those lots in conjunction with the Preliminary PUD, said buildings and/or lots shall be adjusted at time of Final PUD submittal to comply with all said zoning requirements.
- R. The sign exhibits submitted in conjunction with the sign area deviations approved for the Subject Property shall not limit the sign copy to use of the CityGate West development name. Any final Development name shall be permitted for said signs provided that said signage does not exceed the sign area deviations approved herein.

S. Concurrent with any request by the Owner of the Subject Property to revoke any Phase of or all of the CityGate West PUD, the Owner shall submit a new PUD plat, subject to review and approval in accordance with Chapter 4 (Planned Unit Developments) of Title 6 (Zoning Ordinance), which will then serve as the controlling PUD following revocation.

SECTION 3: The Preliminary Subdivision Plat for CityGate West, as depicted on **Exhibit D**, is hereby approved.

SECTION 4: The Preliminary Plat of PUD for CityGate West, as depicted on **Exhibit E**, is hereby approved, except for Lot 11 which shall require submittal of a new Preliminary PUD Plat as provided herein.

SECTION 5: The Commercial Buildings and Architectural Standards for CityGate West, attached to this Ordinance as **Exhibit F**, are preliminary. Final building elevations in general conformity with **Exhibit F** and in compliance with the Citywide Building Design Guidelines then in effect shall be processed for approval with the Final PUD Plat for each Phase. Building elevations for the buildings proposed on Lot 15 of the Development, including but not limited to the full-service Hotel and banquet facility, are not included in **Exhibit F**. Building elevations for the buildings on Lot 15 shall comply with the Citywide Building Design Guidelines then in effect and shall be processed for approval with the Final PUD Plat that includes Lot 15.

SECTION 6: The Signage Plan for CityGate West, attached to this Ordinance as **Exhibit G**, is hereby approved.

SECTION 7: The Preliminary Landscape Plan for CityGate West, attached to this Ordinance as **Exhibit H**, is hereby approved.

SECTION 8: The Open Space Plan for CityGate West, attached to this Ordinance as **Exhibit I**, is hereby approved.

SECTION 9: A conceptual phasing plan for the Development is attached to this Ordinance as **Exhibit J**. A final Phasing Plan shall be submitted and processed as provided herein.

SECTION 10: The Mixed-use/residential Building Elevations for CityGate West, attached to this Ordinance as **Exhibit K**, are hereby approved.

SECTION 11: This Ordinance is subject to all conditions and requirements set forth in Title 6 (Zoning) of the Naperville Municipal Code, as amended from time to time, and to all supporting documents and exhibits contained as a part of the record of the public hearing before the Planning and Zoning Commission.

SECTION 12: This Ordinance is subject to all conditions and requirements set forth in the Naperville Municipal Code, as amended from time to time.

SECTION 13: The City Clerk is authorized and directed to record this Ordinance and its Exhibits with the DuPage County Recorder upon notification from the City Attorney.

SECTION 14: If any section, paragraph, or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph, or provision, shall not affect any of the remaining provisions of this Ordinance or any other City ordinance, resolution, or provision of the Naperville Municipal Code.

SECTION 15: This Ordinance shall be in full force and effect from and after its passage and approval.

PASSED this _____ day of _____, 2021.

AYES:

NAYS:

ABSENT:

APPROVED this _____ day of _____, 2021.

Steve Chirico
Mayor

ATTEST:

Pam Gallahue, Ph.D.
City Clerk