

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

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

THE UNDERSIGNED Petitioner, Hines Acquisitions LLC (hereinafter “Hines” or “Petitioner”), respectfully petitions the City of Naperville to approve two deviations from the Naperville Municipal Code, as amended (hereinafter the “Code”). First, a deviation from Section 6-14-4:3.2.5 to allow Petitioner to use and maintain current light poles on the property with a common address of 1200 E. Diehl Road, Naperville, Illinois, being legally described on Exhibit A (the “Subject Property”). Second, a deviation from section 6-14-4:3.3.3 to permit a maximum 0.5 horizontal footcandles along the south property line of the Subject Property.

BACKGROUND INFORMATION

1. Hines, having an office at 444 W. Lake Street, Suite 2400, Chicago, Illinois 60606 is the contract purchaser of the Subject Property.
2. Hines is an experienced global real estate company with integrated expertise in investment, development, engineering, and management.
3. Hines is active across all real estate product types, with acquisition and development projects representing 351 million SF of office, 160 million SF of industrial, 92 million SF of housing, 33 million SF of retail, and 44 million SF of other mixed-use.
4. Hines has a long history of completing successful projects in the Chicagoland region, with recent signature projects such as Oak Brook Commons and Wolf Point in the City of Chicago.

5. Adtalem Global Education, Inc., a Delaware Corporation is the owner of the Subject Property (“Owner”).
6. The Subject Property consists of approximately 9.5 acres and is improved with a 2-story building comprising approximately 100,000 square feet with an associated 2-story parking structure.
7. On November 5, 2024, the Petitioner received preliminary approvals (the “Approvals”) from the City of Naperville for a mixed-use development consisting of two commercial buildings flanking the main entrance to the mixed-use community and a single five (5) story multi-family building to the south pursuant to the following ordinances:
 - a. Ordinance No. 24-119: An Ordinance Approving Rezoning 1200 E. Diehl From ORI (Office, Research and Light Industry District) to OCI (Office, Commercial, and Institutional);
 - b. Ordinance No. 24-120: An Ordinance Approving a Preliminary Plat of Subdivision of Hines Diehl Road Resubdivision for 1200 E. Diehl Road; and
 - c. Ordinance No. 24-121: An Ordinance Approving a Conditional Use for a Planned Unit Development (PUD) and a Preliminary PUD Plat of Hines Diehl Road Resubdivision with Various Zoning Deviations and Conditional Uses for Retail, Restaurants, Residential, and Parking as a Principal Use.
8. The Approvals included a change in zoning designation from the existing ORI district to the OCI district.
9. Upon the zoning change to the Subject Property, the existing light poles at a height of 32.5’ became legally nonconforming fixtures.

10. The Petitioner seeks to reuse the existing light poles as a means of leveraging existing resources and minimizing waste in the redevelopment of the Subject Property; however, with the scale of the redevelopment activity, said light poles will lose the existing designation as legal non-conforming structures.
11. The Petitioner seeks a deviation from Section 6-14-4:3.2.5 of the Code to permit the reuse of the existing light poles; and
12. The Petitioner seeks a deviation from Section 6-14-4:3.3.3 of the Code to permit a maximum 0.5 horizontal footcandles along the south property line of the Subject Property.
13. The jurisdiction, existing land use, and zoning of properties surrounding the Subject Property are as follows:
 - a. North: City of Naperville – Zoning B2 PUD (Freedom Commons) and ORI (offices)
 - b. East: City of Naperville – Zoning ORI PUD (Offices)
 - c. South: City of Naperville – Zoning R3 (Iroquois Club Condominiums) and B2 (Costco)
 - d. West: City of Naperville – Zoning RD PUD (Office)

DEVIATION FROM SECTION 6-14-4:3.2.5 TO ALLOW LIGHT POLES TALLER THAN TWENTY-FIVE (25) FEET IN A COMMERCIAL DISTRICT AND FROM SECTION 6-14-4:3.3.3 TO PERMIT A MAXIMUM OF 0.5 FOOTCANDLES ADJACENT TO RESIDENTIAL USE

- a. *The requested deviation would not undermine the intent and purpose of the underlying zoning district.*

Section 6-14-4:3.2.5 provides that poles supporting lights shall be no taller than twenty-three (23) feet in a residential district, twenty-five (25) feet in a commercial district, a commercial part of a residential planned unit development, or in office/business park districts,

and thirty-two (32) feet in any industrial district. The intent and purpose of this provision is to ensure that lighting standards are appropriate for the context of the associated land use. It is notable that the zoning provision does not establish pole height standards based on the use of adjacent property, but only considers the classification (residential/commercial/industrial) of the subject property.

Section 6-14-4:3.3.3 provides that the maximum horizontal footcandles at the property line adjacent to a residential use is 0.1 horizontal footcandles. The intent and purpose of this provision is to ensure that the lighting of parcel adjacent to a residential parcel does not unnecessarily impact the quiet use and enjoyment of a residential parcel.

The Subject Property is currently improved with thirty (30) foot tall light poles. The existing light poles are set on concrete bases that range from one (1) foot to two and one-half (2 1/2) feet in height, with the overall height of the poles being not greater than thirty-two and one-half (32 1/2) feet. The existing light poles are consistent with the historical zoning designation of the property as ORI (Office, Research, and Light Industrial District). With the rezoning of the Subject Property to the OCI (Office, Commercial, and Institutional District) pursuant to Ordinance No. 24-119, the existing light poles become a legal non-conforming use.

Due to the scale of the proposed redevelopment of the Subject Property, the existing poles will lose their legal non-conforming designation. Accordingly, Petitioner seeks a deviation to permit the reuse of the existing poles with the proposed mixed-use development of the Subject Property. Petitioner, based on its extensive experience as a developer, owner, and operator of mixed-use properties across the globe, believes that the existing poles are consistent with the character of the proposed development and will not impair the enjoyment and use of the Subject

Property.

Petitioner believes that context is an important consideration. In this case, the development sits within one of the most intensive land use corridors in the City. Residents will consciously choose to live at the Subject Property based on this context. Their expectation of quiet enjoyment is fundamentally different than that of a single-family homeowner on a cul-de-sac in Saybrook. Residents of the Subject Property are specifically choosing to reside in an area because of the location and the energy/activity around the residential land use. Light poles that are 32.5' instead of 25' will not impair residents' expectation of quiet enjoyment.

The existing light levels along the south property line of the Subject Property vary. At its peak, existing light levels are approximately 0.9 horizontal footcandles as depicted on the existing photometric plan, attached hereto as Exhibit B. These light levels are well established and have operated in close proximity to residential development along the south line of the Subject Property for many years. The established light levels have not impaired the development and use of adjacent property. Any perceived impact is minimized by the substantial actual separation between the south line of the Subject Property and the actual residential use of the property adjacent to the south. The lighted area of the parking lot located on the Subject Property is immediately adjacent to a large regional stormwater detention basin that collectively serves the Subject Property, Costco, and adjacent residential development. While the proposed lighting plan for the Subject Property, attached hereto as Exhibit C, shows spillage of light onto the adjacent residential parcel, the impact of that light spillage above Code requirements is entirely constrained to the walking path around the detention basin. The proposed design both improves existing conditions and appropriately eliminates any real impact to the core residential use of the adjacent residential property.

- b. The requested deviation will not be a detriment to the provision of municipal services and infrastructure.*

The requested deviation will have no effect on the provisions of municipal service or infrastructure.

- c. The requested deviation will contribute to a planned unit development which offers a superior level of design, amenity enhancement, or environmental benefit, or would enhance the community vitality through the inclusion of attainable or barrier free housing.*

The requested deviations will allow Petitioner to provide a superior level of design that is environmentally beneficial. The thirty (30) foot light poles, some of which sit atop of a two and one-half foot concrete base, are an existing condition. In their current condition, the lights project beyond the property boundary in a manner that is not compliant with Code. There is no evidence that the operation of these light poles, over many years, has impaired the use and operation of surrounding properties. To the contrary, surrounding properties have both developed and redeveloped, representing significant investment, in the shadow of the existing light poles. Petitioner's plan will ultimately result in a superior level of design, as there will be less light spillage beyond the boundary of the Subject Property, particularly along the south line adjacent to existing residential development.

Petitioner is also environmentally conscious, and took great care in site selection and building design. Petitioner is not working from a blank slate, but is working from the context of the existing built condition. From inception, Petitioner has consciously focused redevelopment efforts around the context of the existing improvements. The existing parking garage will undergo minor repairs and be repainted, but the adaptive reuse of the existing structure is a critical component of Petitioner's efforts to manage redevelopment costs and corresponding

rental rates. Likewise, Petitioner's demolition plan evidences the care that has been taken to reuse other components of existing infrastructure. While pavement sections are roughly 40 years old and require replacement, Petitioner is consciously preserving the base or foundation of most drive aisle and parking fields. Around the parking garage existing light poles will not be disturbed. In other areas, poles may be relocated, but reuse of the poles will establish a consistent framework across the Subject Property. Petitioner's adaptive reuse of the light poles is environmentally conscious.

The proposed deviations present a unique scenario where Petitioner is consciously repurposing infrastructure associated with the transition of a commercial property to residential land use. Petitioner has taken appropriate steps to minimize impacts associated with the reuse of infrastructure and, in all cases, is improving the existing condition. Failure to grant the deviations would increase costs of the project, unnecessarily divert quality resources to a landfill, and impair Petitioner's intent to minimize prevailing rental rates in the market.

WHEREFORE, by reason of the foregoing, the undersigned Petitioner requests the City Council and Plan Commission take the necessary steps to approve deviations from Section 6-14-4:3.2.5 and Section 6-14-4:3.3.3 of the Naperville Municipal Code, as amended, to allow Petitioner to: i) maintain and reuse the existing thirty (30) foot tall light poles on concrete bases not to exceed two and one-half (2 ½) feet in height on the Subject Property; and ii) allow a maximum 0.5 horizontal footcandles along the south property line of the Subject Property, all as depicted on the plans submitted herewith and pursuant to the appropriate provisions of the Naperville Municipal Code, as amended.

RESPECTFULLY SUBMITTED this 14th day of April, 2025

PETITIONER:

Hines Acquisitions, LLC

A handwritten signature in blue ink, appearing to read "K. Whitaker", is written over the text of the attorneys.

Rosanova & Whitaker, Ltd.
Attorneys for the Petitioner