

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

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

THE UNDERSIGNED Petitioner, Charleston Row II, LLC, an Illinois limited liability company (hereinafter “the Petitioner”) respectfully petitions the City of Naperville to consolidate two (2) existing lots located along Aurora Avenue and Main Street (“Subject Property”) into one (1) lot, approve a conditional use to allow a townhome development in the R-2 Zoning District, grant a variance from Section 6-6C-8 of the City’s code to allow 3.5 stories and a building height of up to 42’2”, grant an area requirement variance from Section 6-6C-5 of the City’s code to allow one unit per 3,303 square feet in lieu one unit per 4,000 square feet, grant a setback variance from Section 6-6C-7 to reduce the rear yard setback along the south property line from twenty-five feet (25’) to ten feet (10’), and grant a setback deviation to eliminate the twenty-five foot (25’) platted setback line along Main Street as depicted on the Lesnik Subdivision Recorded as Document No. 2005-054551 on March 17, 2005, 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. Charleston Row II, LLC, an Illinois limited liability company, with an office at 933 E. Ogden Avenue, Naperville, Illinois 60563, is the Petitioner.
2. Elizabeth Barnhart is the owner of the property located at 514 S. Main Street, Naperville, Illinois 60540.

- 3. Charleston Aurora, LLC, an Illinois limited liability company is the owner of the properties located at 24 and 30 Aurora Avenue, Naperville, Illinois 60540.
- 4. The Subject Property consists of two (2) lots totaling approximately 26,426 square feet located along Aurora Avenue and Main Street in Naperville, Illinois.
- 5. The Subject Property is currently occupied by three (3) single family rental homes which are depicted on **Exhibit B**.
- 6. The Subject Property is transitional in nature.
- 7. The existing land uses surrounding the Subject Property are as follows:
  - a. North: B-5 Zoning: Commercial - Walgreen's & Yoga
  - b. East: "OCI" Zoning: Harris Bank
  - c. South: "R-2" Residential Zoning: Single family home
  - d. West: "R-2" Residential Zoning: Dental Office & Residences

**SUMMARY OF DEVELOPMENT**

The Subject Property is located at the southeast corner of Aurora Avenue and Main Street within walking distance to all of downtown Naperville. The proposed residential development will be a continuation of the existing Charleston Row project which was very well received. The proposed addition will consist of eight (8) homes ranging from approximately 3,000 square feet to 3,300 square feet. Consistent with the Charleston Row project, each of these home will be maintenance free with the homeowner's association being responsible for all exterior maintenance, landscaping and snow removal.

The proposed architecture is also a continuation of the quality associated with the existing Charleston Row project. These new homes will be similarly designed in the classic style of a French city home. Exterior materials will be primarily limestone cladding and hard-coat

stucco in a matching color. The roof of the buildings will be simulated slate shingles with steep roof pitches at the perimeter adding to the French city house feeling. Windows throughout the building are accented by stone or stucco sills and cornices, with decorative brackets. Each home will be three (3) stories with a patio and rooftop deck. At the rear of each home will be the two-car garages which are topped by terraces accessed off of each kitchen.

This historically inspired development will continue the bridge between the single-family residential district to the south and the business district to the north, west and east. Being residential in nature, the proposed homes will provide a consistent use to the existing residences to the south and west. They will also provide an excellent land planning transition from the high intensity of Washington Street and Aurora Avenue and will provide a buffer for the residential properties to the south by reducing the noise and disturbances experienced currently. A landscape buffer area will be also installed adjacent to the existing residential homes along the south property line to provide further screening to the existing residences and enhance the view to the Subject Property. Unique to the proposed development will also be a large open space area along the southern portion of the Subject Property which will be improved with a seating area for relaxation and socializing as well as extensive landscape treatments.

Access and circulation will be improved. Access will be provided solely from Main Street eliminating any interference with traffic along Aurora Avenue which will provide for the removal of the existing curb cuts along Aurora Avenue and Main Street. All together two (2) curb cuts will be removed from Main Street and one (1) from Aurora Avenue. Removing the curb cuts will provide much safer access and vehicular circulation which is an improvement over the current conditions. Parking and guest parking will exceed all City requirements.

**REQUIRED DEVELOPMENT ENTITLEMENTS – R-2 ZONING DISTRICT**

1. The Petitioner seeks approval of a plat of re-subdivision to consolidate the two (2) lots into one (1) lot.
2. The Petitioner seeks a conditional use to allow for townhomes in the R-2 zoning district.
3. The Petitioner seeks approval of a variance to City code section 6-6C-8 to allow for 3.5 stories instead of 3 stories and building heights of up to 42’2”.
4. The Petitioner seeks approval of an area requirement variance from Section 6-6C-5 of the City’s code to allow one unit per 3,303 square feet in lieu one unit per 4,000 square feet.
5. The Petitioner seeks approval of a setback variance from Section 6-6C-7 to reduce the rear yard setback along the south property line from twenty-five feet (25’) to ten feet (10’).
6. The petitioner seeks a platted setback deviation to eliminate the 25’ front yard platted setback line on the Lesnik Subdivision Recorded as Document No. 2005-054551 on March 17, 2005.
7. 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.

**CONDITIONAL USE TO ALLOW TOWNHOMES IN THE R-2 ZONING DISTRICT**

- 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 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 conditional use will not be detrimental to or endanger public health, safety or the general welfare. The conditional use 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 row home opportunity within walking distance of necessities such as pharmacies, retail and dining and entertainment venues to be able to enjoy such a lifestyle. In addition, the conditional use will provide for the development of underperforming land 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 for the Subject Property.

*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 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.

*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 Proposed development is consistent with the City's master plan for this property and the R-2 Zoning District which will then help insure the normal, orderly and desirable development of the Subject Property and adjacent areas. The proposed development will create the highest and best use of the Subject Property and eliminate the existing houses and unnecessary access points on Aurora Avenue.

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

The proposed development is right on target with the City's R-2 zoning district as evidenced herein which is the comprehensive master plan for this area.

**VARIANCE FROM CITY CODE SECTION 6-6C-8 TO ALLOW FOR 3.5 STORIES  
AND A BUILDING HEIGHT OF 42'2"**

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

Code Section 6-6C-8 of the R-2 zoning district permits heights of up to forty (40) feet and three (3) stories. The story variances arises from the code requirement that the building not exceed three (3) stories. The main living areas will only encompass three (3) stories. However, code section 6-1-6 (Definitions) requires the rooftop deck area to be considered as a half ( $\frac{1}{2}$ ) story as it is accessible by a stairwell, will include a small storage area, and is improved with floor decking. As a result, despite the building meeting the City's story requirement, the Petitioner must seek a variance for an additional half ( $\frac{1}{2}$ ) story in order to provide for a roof top deck amenity. It is important to note, that if the variance were not granted, the building height and aesthetics will not change at all. If this variance is not granted, the only changes would be that there would be no roof top deck feature and the attic area would not be utilized for storage. The size, height and dimensions of the building would be exactly the same.

With regard to the height of the building, pursuant to Section 6-2-4 of the Code, as of July 5, 2005, building height is now measured from "datum points", which are established by calculating the average of the two grades taken where the front yard setback line intersects with the side property lines. Due to the unique topography of the Subject Property, if the property drops off over six feet (6') from the west datum point (682.6) to the east datum point (676.2), a distorted result is realized when the datum point height analysis is applied to the Subject Property. As such, Petitioner requests a variance to increase the maximum height from 40' to 42'2" to adjust for the unusual topography of the Subject Property. For reference, the existing

Charleston Row project consisted of the exact floor heights and building height but did not require a height variance because the site was generally flat. In calculating height, the method of calculation found in Section 6-2-4 is meant to account for subtle variations in topography on a given property. Here, the Subject Property features a significant slope that skews the resultant datum points in such a way as to unnecessarily and artificially restrict the height of any residence on the Subject Property, limiting height more drastically than the Code intends.

- 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 highest and best use of the land. Additionally, strict enforcement of this title would substantially negatively affect the marketability and viability of these townhomes and this project. In researching the viability of this development to our target market, (empty nesters and professionals) the roof top decks are a significant amenity and major selling point which have been positively received. In addition, the small attic storage areas will be beneficial as well. Should the roof top decks be removed, a significant enhancement and a marketable amenity will be lost. Lastly, although the underlying datum point calculation method usually creates an appropriate point from which to gauge the height of a home, in this instance, the topographical variation and unique features of the Subject Property skews the resultant datum point in such a way that creates a hardship imposed on Petitioner. While other owners whose property is relatively uniform are allowed up to forty feet (40') in actual height, because of the variation on Petitioner's property, the datum point calculation reduces the actual height afforded Petitioner. This reduction in the height allowed on Petitioner's property in turn creates architectural and engineering restrictions and difficulties that are generally not found on other

properties in the 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 in harmony with adjacent residential uses and will be the highest and best use of the property, so there will be no detriment to the adjacent properties. This variance would be virtually undetectable and would have no effect on the essential character of the area. In fact, the rooftop deck area is completely screened behind the roof area and invisible from view from the northern, eastern and western facing facades. The proposed use of the Subject Property is consistent with the residential character of the area, will actually improve upon the area, and will not be a substantial detriment to adjacent property. Instead, the variance will allow Petitioner to construct homes on the Subject Property consistent with the quality associated with the existing Charleston Row Homes, contributing to the growth of the neighborhood and Naperville in general. Moreover, the building will be setback approximately fifteen feet (15') from the east property line in lieu of the required six feet (6') further minimizing the height variance.

**VARIANCE FROM CITY CODE SECTION 6-6C-7 TO REDUCE THE REAR YARD SETBACK FROM 25' TO 10'.**

*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. First, it is important to note that if someone were to build a single-family home along the southern property line, the interior side yard setback requirement of six feet (6') would be applicable. Here, because the two units to be built along the south property line are part of a larger row home project where the front yard is considered along Aurora Avenue, the south property line is



considered a rear yard. However, for or all intensive purposes the rear yard will actually function as a side yard in which case the proposed ten foot (10') setback will actually exceed what is required for an interior side yard. The property located immediately to the south of the Subject Property will be adjacent to the side elevation of the southernmost row home and open space areas which will function very much like two interior side yards. Lastly, the setback area will be extensively landscaped with arborvitae and decorate trees to create additional delineation. The proposed row homes located along the south property line will be a substantial improvement over the existing single-family home.

- 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*

The Subject Property is unique as it is bounded by two roads and is a transitional property separating a busy commercial center from a quiet residential setting. A residential use is the only appropriate use for the Subject Property, however a single-family home would not be viable at this location. Strict enforcement of this title would substantially negatively affect the marketability and viability of these townhomes and this project. Without this variance the Petitioner would have to achieve a twenty five foot (25') rear yard setback which would cause the elimination of two homes, and the project would no longer be viable.

- 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 will not alter the essential character of the neighborhood and will not be a substantial detriment to the adjacent property. Currently, the existing home located on the Subject property is setback approximately fourteen feet (14') from the rear property line which is actually currently considered an interior side yard setback and permitted to be only setback six feet (6'). The variance will provide for the improvement of the Subject Property with a

complimentary residential use which will have a positive impact on property values. Lastly, the setback area will be extensively landscaped to create additional delineation between the two properties and enhance property values in the area.

**AREA REQUIREMENT VARIANCE FROM SECTION 6-6C-5 OF THE CITY CODE  
TO ALLOW ONE UNIT PER 3,303 SQUARE FEET IN LIEU OF ONE UNIT PER 4,000  
SQUARE FEET**

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

The Subject Property consists of approximately 26,426 square feet. The City's R-2 zoning district requires 4,000 square feet per dwelling unit. Density limitations ensure that public facilities, be it utilities, schools, parks, or roadway infrastructure, are not overwhelmed by the number of people output from a development. In this instance, the proposed use of the Subject Property as eight (8) dwelling units is a substantially less intense use than other uses within the surrounding area and is consistent with what is appropriate for a downtown area. Maintaining the Subject Property in its current configuration, with only three (3) homes, is not an efficient use of resources or the highest and best use of the Subject Property. The requested variance to allow for eight (8) homes on the Subject Property is in harmony with the general purpose and intent of this Title and the adopted comprehensive master plan. Additionally, it is important to note that the existing Charleston Row project consists of a total building square footage of 9,878 square feet on 25,687 square feet which is actually a higher floor area ratio than what is proposed for the Subject Property. Lastly, the proposed Charleston Row II will include the open space amenity discussed above.

- 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*

The Subject Property is unique as it is bounded by two (2) roads and is a transitional

property separating a busy commercial center from a quiet residential setting. A residential use is the only appropriate use for the Subject Property; however a single-family home would not be viable at this location. Therefore, strict enforcement of this title would substantially negatively affect the marketability and viability of these townhomes and this project. Without the density variance the project would no longer be viable.

- 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 existing structures which are currently located on the Subject Property are generally run down and out of character for the neighborhood. As such, Petitioner's variance request could be restated as a request to improve the existing condition with townhomes complementary to the surrounding uses and which will increase the property values in the area.

#### **DEVIATION TO THE 25' FRONT YARD PLATTED SETBACK**

- a. The Petitioner has shown that strict adherence to the provisions of this Title would cause unnecessary hardship due to conditions which are unique to the site and not caused by the owner or petitioner; and*

Strict adherence to the provisions of this Title would cause unnecessary hardship due to conditions which are unique to the site and not caused by the owner or petitioner. The Petitioner's request arises from the fact that the Lesnik Plat of Resubdivision recorded in DuPage County on March 17, 2005 as document no. R2005054551 established a twenty-five (25') foot building front setback line along Main Street. However, the City of Naperville's R-2 zoning district considers the area adjacent to Main Street a corner side yard which actually has a setback with a fifteen foot (15') requirement. As a result compliance with the existing erroneous subdivision plat would require the Petitioner to shift the buildings located along Main Street back an additional ten feet (10') which would in turn reduce the open space provided and also shift the

homes closer to the commercial uses along Washington Street which is an undesirable outcome. Additionally, the existing home located at the southeast corner of Main Street and Aurora Avenue is already setback 14.51 feet from Main Street which is consistent with the Petitioner's proposal and the City's code.

*b. The requested subdivision deviation is not contrary to the intent and purpose of the provisions of this Title.*

The proposed row homes to be located on the Subject Property are consistent with the character of the neighborhood, comprehensive land use plan, and in harmony with the residential intent of the City's R-2 zoning district. The requested deviation is actually consistent with the intent and provisions of the Code. The yard adjacent to Main Street is actually considered a corner side yard and not a front yard. Aurora Avenue will be the front yard and will comply with the City's twenty-five foot (25') front yard setback. Because Main Street will actually be the side yard, a fifteen foot (15') required yard is required, and not the platted twenty-five foot (25') setback. Without the deviation to the platted setback, the proposed homes would have to be constructed closer to Washington Street, negatively impacting the open space area and pushing the homes closer to commercial uses. Instead, granting the requested deviation will be an improvement to the existing use, whereby the homes will be setback fifteen feet (15') from Main Street and will provide a nice buffer for the existing homes south of the Subject Property from Aurora Avenue.

**WHEREFORE**, by reason of the foregoing, the undersigned Petitioner requests the City Council and Plan Commission take the necessary steps to consolidate two (2) existing lots located along Aurora Avenue and Main Street ("Subject Property") into one (1) lot, approve a conditional use to allow townhomes in the R-2 Zoning District, grant a variance from Section 6-

6C-8 of the City's code to allow 3.5 stories and a building height of 42'2", grant an area requirement variance from Section 6-6C-5 of the City's code to allow one unit per 3,303 square feet in lieu one unit per 4,000 square feet, grant a setback variance from Section 6-6C-7 to reduce the rear yard setback along the south property line from twenty-five feet (25') to ten feet (10'), and grant a setback deviation to eliminate the twenty-five foot (25') front yard platted setback line on the Lesnik Subdivision Recorded as Document No. 2005-054551 on March 17, 2005, all regarding the property legally described on **Exhibit A** and as depicted on the plans submitted herewith pursuant to the appropriate provisions of the Naperville Municipal Code, as amended.

RESPECTFULLY SUBMITTED this 26<sup>th</sup> day of June 2018.

PETITIONER:



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Rosanova & Whitaker, Ltd.  
Attorneys for the Petitioner

#### LIST OF EXHIBITS

EXHIBIT A: LEGAL DESCRIPTION OF SUBJECT PROPERTY

EXHIBIT B: PICTURES OF SUBJECT PROPERTY

**Legal Description**

LOT 1 IN LESNIK RESUBDIVISION OF PART OF THE EAST HALF OF THE NORTHEAST QUARTER OF SECTION 24, TOWNSHIP 38 NORTH, RANGE 9, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT OF RESUBDIVISION RECORDED MARCH 7, 2005 AS DOCUMENT NO. R2005-054551, IN DUPAGE COUNTY, ILLINOIS.

Commonly Known as: 514 S. Main Street, Naperville, Illinois 60540

PIN 07-24-204-024

**AND**

THE NORTHERLY 100 FEET (MEASURED ON THE EAST AND WEST LINES) OF LOT 17 IN BLOCK 1 OF MARTIN'S SECOND ADDITION TO THE VILLAGE OF NAPERVILLE, IN THE NORTHEAST QUARTER OF SECTION 24, TOWNSHIP 38 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED NOVEMBER 27, 1868, AS DOCUMENT 10068, IN DUPAGE COUNTY, ILLINOIS.

Commonly Known as: 24 & 30 W Aurora Avenue, Naperville, Illinois 60540

PIN 07-24-204-001



Exhibit B

