

PINs:

08-18-113-013, 08-18-113-014,
08-18-116-015, 08-18-117-005,
08-18-117-006, 08-18-117-007

ADDRESS:

200-300 E. 5th AVENUE
NAPERVILLE, IL 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 #20-1-120

ORDINANCE NO. 21 - ____

**AN ORDINANCE APPROVING A MAJOR CHANGE TO
A PLANNED UNIT DEVELOPMENT TO PERMIT A PARKING DEVIATION AND A
FINAL PLANNED UNIT DEVELOPMENT PLAT
FOR 5TH AVENUE STATION**

RECITALS

1. **WHEREAS**, McAllister Pierce Partners, LP ("**Petitioner**") is the owner of real property comprised of 5 parcels located at 200-300 E. 5th Avenue, Naperville, Illinois, legally described on **Exhibit A** and depicted on **Exhibit B** ("**Subject Property**") and commonly known as 5th Avenue Station; and
2. **WHEREAS**, the Subject Property is currently zoned I (Industrial District) and is improved with a 290,000 square foot mixed-used building ("**Subject Building**") and 397 parking spaces located in five (5) surface lots; and
3. **WHEREAS**, Petitioner has petitioned the City of Naperville for approval of a major change to the Kroehler Center Planned Unit Development (PUD) to permit a parking

deviation and a Final PUD Plat for the Subject Property in order to construct 8 new residential apartment units and 2,300 square feet of office space interior to the Subject Building; and

4. **WHEREAS**, on March 5, 1984, the City Council of the City of Naperville passed Ordinance No. 84-026, approving a Preliminary PUD Plat for the Atrium Apartments on Subject Property in order to facilitate the conversion of the Subject Building into a mixed-use commercial building; and
5. **WHEREAS**, on August 5, 1985, the City Council of the City of Naperville passed Ordinance No. 85-055, approving a Major Change to the Preliminary PUD Plat for the property known as the Kroehler Complex (formerly the Atrium Apartments); and
6. **WHEREAS**, on January 8, 1986, the City Council of the City of Naperville passed Ordinance No. 86-003, approving a Final PUD Plat for the Kroehler Property (the Atrium Apartments); and
7. **WHEREAS**, the underlying PUD was approved with less parking spaces than required by Code; and
8. **WHEREAS**, over the past 30 years the uses located at the Subject Property has transitioned from higher intensity parking demand uses such as retail and restaurants to lower parking demand generators such as office uses.
9. **WHEREAS**, the Petitioner is proposing to repurpose certain areas internal to the building to construct additional residential units and office space without construction of additional parking spaces and therefore, requests a deviation to reduce the number of required off-street parking spaces; and

10. **WHEREAS**, per Section 6-4-6:1 (Changes to a Final Planned Unit Development: Major Change), a request for a deviation from the underlying Code requirements results in a major change to the PUD; and
11. **WHEREAS**, the Petitioner has submitted a parking study to support the deviation request; and
12. **WHEREAS**, the requested major change and deviation meets the standards for granting a major change to a PUD and the standards for granting a deviation as provided in **Exhibit C** attached hereto; and
13. **WHEREAS**, on February 17, 2021, the Planning and Zoning Commission conducted a public hearing to consider PZC 20-1-120, and recommended approval of the Petitioner's requests; and
14. **WHEREAS**, the City Council has determined that the Petitioner's requests should be granted 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 as though fully set forth in this Section 1. All exhibits referenced in this Ordinance shall be deemed incorporated and made part hereof.

SECTION 2: A major change to the Kroehler Center Planned Unit Development to permit a deviation to reduce the amount off-street parking required per Section 6-9-3 (Schedule of Off-Street Parking Requirements) is hereby approved subject to the following conditions:

1. The number of parking spaces assigned for residential purposes on the Subject Property shall not exceed one hundred and sixty five (165) spaces. . Petitioner

shall ensure compliance with the residential parking limits through leasing agreements; and

2. If the City's Zoning Administrator determines that the tenant's parking needs cannot be accommodated within the parking on the Subject Property, the Petitioner shall take adequate measures to meet the parking needs, including but not limited to formally assigning/reserving parking spaces for each employee or resident, constructing additional parking spaces, or establishing an overflow parking location off-site, as necessary, which shall be subject to the review and approval of the Zoning Administrator. Failure to timely take adequate measures to adequately accommodate the tenant's parking needs may result in the City's revocation of the parking deviation; and
3. The total parking required, in accordance with the parking requirements established in the Naperville Municipal Code, for all non-residential tenants located at the Subject Property shall not exceed 255 spaces. Said 255 spaces includes a 10% administrative allowance in order to provide limited additional flexibility within the parking requirements for the proposed non-residential tenants at the Subject Property. Said 10% administrative allowance shall be eliminated if the Zoning Administrator is aware of parking concerns at the Subject Property and if the Petition has failed to take the appropriate action pursuant to Paragraph 2 above. In that instance, the total parking required for all non-residential tenants located at the Subject Property shall not exceed 232 (required parking number not including 10%). Any request that would exceed this 10% allowance will require a public hearing for a parking deviation before the Planning and Zoning Commission with a recommendation to and final action by City Council.

SECTION 3: The Final Planned Unit Development Plat for Kroehler Center, attached to this Ordinance as **Exhibit B**, is hereby approved.

SECTION 4: Petitioner shall pay the required school donation amount of \$5,124.63 as shown in the attached **Exhibit E**. Petitioner acknowledges that the required school donation amount of \$5,124.63 (based on 5 one-bedroom and 3 two-bedroom apartment units) is calculated based on Section 7-3-5 (Dedication of Park Lands and School Sites or For Payments or Fees In Lieu Of) of the Naperville Municipal Code. Petitioner has elected to pay a cash-in-lieu of a contribution of land for the required school donation pursuant to the "Estimated Lump Sum Payment" provisions set forth in Section 7-3-5:5.2.1 and Subsection 5:5.2.1.1 of the Naperville Municipal Code. Petitioner agrees that payment of the school donation amount established herein shall not be paid under protest, or otherwise

objected to, and shall be paid prior to recording the Final PUD Plat for the Subject Property. Petitioner further acknowledges that the school donation established herein will be verified at the time of each building permit issuance, and if the number of bedrooms in the dwelling unit exceeds one bedroom, then the permit applicant shall be charged for additional bedrooms, in accordance with the school donation table contained in the Naperville Municipal Code in effect at the time the building permit is issued.

SECTION 5: Petitioner shall pay the required park donation amount of \$40,450.00 as shown in the attached **Exhibit F.** Petitioner acknowledges that the required park donation amount of \$40,450.00 (based on 5 one-bedroom and 3 two-bedroom apartment units) is calculated based on Section 7-3-5 (Dedication of Park Lands and School Sites or For Payments or Fees In Lieu Of) of the Naperville Municipal Code. Petitioner has elected to pay a cash-in-lieu of a contribution of land for the required park donation pursuant to the “Estimated Lump Sum Payment” provisions set forth in Section 7-3-5:5.2.1 and Subsection 5:5.2.1.1 of the Naperville Municipal Code. Petitioner agrees that payment of the park donation amount established herein shall not be paid under protest, or otherwise objected to, and shall be paid prior to recording the Final PUD Plat for the Subject Property. Petitioner further acknowledges that the park donation established herein will be verified at the time of each building permit issuance, and if the number of bedrooms in the dwelling unit exceeds one bedroom, then the permit applicant shall be charged for additional bedrooms, in accordance with the park donation table contained in the Naperville Municipal Code in effect at the time the building permit is issued.

SECTION 6: This Ordinance is subject to all conditions and requirements set forth in the Naperville Municipal Code, as amended from time to time.

SECTION 7: The City Clerk is authorized and directed to record this Ordinance and the Final Planned Unit Development Plat for Kroehler Center with the DuPage County Recorder.

SECTION 8: 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 9: This Ordinance shall be in full force and effect upon 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